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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Impact of multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of all human rights by women and girls

Report of the United Nations High Commissioner for Human Rights

Summary

In the present report, submitted to the Human Rights Council pursuant to its resolution 32/17, the United Nations High Commissioner for Human Rights analyses the ways in which several grounds of discrimination intersect, and the impact that they have on the full realization of women's and girls' human rights. He also summarizes practices shared by States, identifies implementation gaps and makes recommendations.

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I. Introduction

1. In its resolution 32/17, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to submit to the Council, before its thirty-fifth session, a report on the impact of multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of all human rights by women and girls, with a view to identifying challenges and good practices. The present report was prepared pursuant to that request.

2. Accordingly, on 26 October 2016, OHCHR addressed a note verbale to Member States, intergovernmental and non-governmental organizations, international human rights mechanisms, national human rights institutions and academia seeking their views and information on the issue.

3. OHCHR received written submissions from Member States (Albania, Bahrain, Colombia, Cuba, Georgia, Kuwait, Mexico, Mali, Norway, Oman, Qatar, Serbia, Slovenia, Spain, Turkey and the United States of America), experts of human rights treaty bodies and special procedure mandate holders; national human rights mechanisms; and non-governmental organizations.[1]

II. International framework

4. Several international instruments and human rights mechanisms explicitly recognize the impact of intersecting forms of discrimination on the enjoyment of human rights by women and girls They also recognize the need for specific and targeted protection of women and girls from multiple, compounded and/or intersecting forms of discrimination based on grounds such as race, sex, ethnicity, religion, nationality and migration status.

5. In 1993, the Vienna Conference on Human Rights addressed specific human rights violations suffered by identifiable groups of individuals. Building on the Vienna Declaration and its framework, both the Fourth World Conference on Women in Beijing and the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban addressed discrimination based on multiple grounds.

6. In the New York Declaration for Refugees and Migrants, adopted on 19 September 2016, Member States committed to tackle the multiple and intersecting forms of discrimination against refugee and migrant women and girls. The United Nations Declaration on the Rights of Indigenous Peoples recognizes the specific needs and rights of indigenous women, and calls upon States to take measures, together with indigenous peoples, to ensure that indigenous women and children enjoy full protection and guarantees against all forms of violence and discrimination. In its resolution 69/16, the General Assembly proclaimed 2015-2024 as the International Decade for People of African Descent, requesting States to adopt and implement policies and programmes that provide effective protection for, and review and repeal all policies and laws that could discriminate against, people of African descent facing multiple, aggravated or intersecting forms of discrimination based on other related grounds, such as sex, language, religion, political or other opinion, social origin, property, birth, disability or other status.

[1] The submissions are available on the OHCHR website at www.ohchr.org/EN/Issues/Women/WRGS/Pages/Report.aspx.

7. The Committee on the Elimination of Discrimination against Women has identified intersectionality as a basic concept for understanding the scope of the general obligations of State parties contained in article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. The concept of intersectionality captures the consequences of two or more combined systems of discrimination, and addresses the manner in which they contribute to create layers of inequality.[2] In its general recommendation No. 28, the Committee called upon State parties to legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them, and to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25.

8. The Committee on the Elimination of Racial Discrimination noted, in its general recommendation No. 25, the gender-related dimensions of racial discrimination and focused on the intersectionality of race and gender in its work. The Committee also framed sexual violence against women belonging to particular racial or ethnic groups in detention or during armed conflict, the coerced sterilization of indigenous women and the abuse of women workers in the informal sector or domestic workers employed abroad by their employers, and other types of abuse and violence targeting specific groups of women as a form of racial discrimination directed towards them because of their gender.[3]

9. In its general recommendation No. 30, the Committee on the Elimination of Discrimination against Women found that, in conflict situations, specific groups of women and girls are at particular risk of violence, especially sexual violence, such as internally displaced and refugee women, and women of diverse caste, ethnic, national or religious identities, or other minorities, who are often attacked as symbolic representatives of their community, and that Stateless women and girls face heightened risks of abuse in times of conflict, including because many are undocumented and/or belong to ethnic, religious or linguistic minority populations.

10. With regard to women and girl refugees and asylum seekers, the Committee on the Elimination of Discrimination against Women, in its general recommendation No. 32, noted that gender-related claims to asylum may intersect with other proscribed grounds of discrimination, including race, ethnicity/nationality, religion, class, caste, and being lesbian, bisexual or transgender or other status, and requested States parties, in accordance with the Convention relating to the Status of Refugees, to take proactive measures to ensure that the legally recognized grounds of persecution, including those enumerated in the Convention, were given a gender-sensitive interpretation.

11. In its general recommendation No. 34, the Committee on the Elimination of Discrimination against Women also noted how rural women, and in particular indigenous and Afro-descendent women, often face intersecting discrimination based on their ethnicity, language and traditional way of life, and that women belonging to ethnic or religious minorities may also experience higher rates of poverty and other forms of social exclusion.

12. The Committee further noted, in its general recommendation No. 24, that societal

[2] Report of the Expert Group Meeting on gender and racial discrimination, organized by the Division for the Advancement of Women, OHCHR and the United Nations Development Fund for Women, Zagreb, 21-24 November 2000.

[3] See also Committee on Economic, Social and Cultural Rights, general recommendation No. 20.

factors determine the health status of women, whereby special attention should be given to the health needs and rights of women belonging to disadvantaged groups, such as migrant women, refugee and internally displaced women, the girl child or indigenous women.

13. In its general recommendation No. 26, the Committee also noted that women migrant workers often experience intersecting forms of discrimination, suffering not only sex- and gender-based discrimination, but also xenophobia and racism. Discrimination based on race, ethnicity, cultural particularities, nationality, language, religion or other status may be expressed in sex- and gender-specific ways.

III. Impact of intersecting forms of discrimination on women's and girls' lives

A. Socioeconomic exclusion and poverty

14. The Durban Declaration acknowledged that racism, racial discrimination, xenophobia and related intolerance can be among the factors leading to a deterioration in women's and girls' living conditions, poverty, violence, multiple forms of discrimination, and the limitation or denial of women's and girls' human rights. Women and girls who are affected by intersectional discrimination based on gender, race, ethnicity, work and descent or religion often lack economic opportunities and decent work, and are overrepresented in low paid, often exploitative jobs such as domestic work (see for example A/HRC/27/68/Add.1, para. 83). In 2013, there were 53 million domestic workers worldwide, 83 per cent of whom were women, many belonging to racial or ethnic minorities.[4]

15. According to the International Labour Organization, about half of the world's migrants are women.[5] Poverty and discrimination are considered significant drivers of migration (see A/70/59, para. 9). The majority of women migrant workers are being channelled into traditionally female-dominated occupations, such as domestic work or in the garment and textile industries abroad, where they often work in precarious conditions. They are frequently excluded from labour law protection, affected by discriminatory residence regulations, such as sponsorship systems, and face the risk of a number of human rights abuses, including violence and forced labour.[6]

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[4] International Labour Office, *Domestic workers across the world: Global and regional statistics and the extent of legal protection*, Geneva, 2013.

[5] See www.ilo.org/global/topics/labour-migration/policy-areas/migrant-domestic-workers/lang--en/index.htm. In the absence of a universal legal definition, OHCHR, in its *Recommended Principles and Guidelines on Human Rights at International Borders*, defines the term "international migrant" as "any person who is outside a State of which he or she is a citizen or national, or, in the case of a stateless person, his or her State of birth or habitual residence".

[6] OHCHR, *Behind closed doors: Protecting and promoting the human rights of migrant domestic workers in an irregular situation*, New York and Geneva, 2015. See also Ray Jureidini, "Migrant workers and xenophobia in the Middle East", United Nations Research Institute for Social Development, programme paper No. 2, December 2003.

16. Women are deeply affected by intersectional discrimination when seeking employment or at the workplace. Stereotypes held by employers, colleagues or business partners, whether subtle or explicit, may surface during the hiring process or at the workplace. In France, an experiment showed that women with a Senegalese sounding name had 8.4 per cent chance of being called for an interview when applying for a job, compared with 13.9 per cent for men with a Senegalese sounding name and 22.6 per cent for women with a French-sounding name.[7] Women may be requested to conceal their cultural or religious identity, and face harassment or even dismissal for not doing so. They may be asked to fulfil additional selection requirements, be denied a promotion, asked to do lower level jobs, or earn less for the same type of work.

17. According to the Special Rapporteur on extreme poverty and human rights, the amount, intensity and drudgery of unpaid care work increase with poverty and social exclusion, while the situation is often worse for women who experience discrimination and social exclusion on other grounds, such as ethnicity, race, colour, health or marital status. Women and girls in poor households spend more time in unpaid work than in non-poor households because they have limited access to public services, adequate infrastructure and resources to pay for care services or time-saving technology. Intensive unpaid care work has a direct impact on women's and girls' ability to realize their rights throughout their lifecycle, as it limits their opportunities to have access to and progress in education, to participate in income-earning activities and to accumulate retirement incomes and savings, all of which contribute to their higher vulnerability to poverty (A/68/293, paras. 14 and 18).

18. Marginalized communities often live in areas that are geographically segregated and characterized by lack of public transport and infrastructure, basic services and clean water, inadequate housing and sanitation, high levels of insecurity and violence. Women and girls living in such areas can be disproportionately affected by the lack of housing, health services, including sexual and reproductive health services, education and employment, as well as the lack of protection by the State from insecurity and violence. According to the United Nations Development Programme (UNDP), the level of poverty of an Afro-Ecuadorian woman living in rural areas accounts for 87.3 per cent per unsatisfied basic needs, while the average of an urban Afro-Ecuadorian woman is 62.2 per cent.[8] Statistics also show that women of African descent have less access to housing,[9] health and education[10] than men of African descent and women not of African descent.

19. Intersecting forms of discrimination restrict women's and girls' access to land, financial assets and productive resources. According to the Special Rapporteur on violence against women, its causes and consequences, 64 per cent of all indigenous women in Guatemala are unpaid family workers, with little or no independent access to land, credit or other productive resource (E/CN.4/2005/72/Add.3, para. 11). The Working Group on the issue of discrimination against women in law and in practice noted that, in Peru, indigenous women are forced from their lands by the activities of extractive industries or informal mining operations, while compensation payments for communal land are mainly paid to male heads of households. As a result, indigenous women are deprived of their lands, drinking water and means of subsistence and agricultural production, lack access to opportunities for employment and skills development, and consequently often face extreme

[7] European Network against Racism, Afrophobia in Europe: ENAR Shadow Report 2014-2015.

[8] UNDP, Derechos de la población afrodescendiente de América Latina: Desafíos para su implementación, Panamá, p. 130.

[9] Ibid., p. 140.

[10] Inter-American Commission on Human Rights, *The Road to Substantive Democracy: Women's Political Participation in the Americas*, 18 April 2011, para. 94.

poverty, severe discrimination and both sexual and labour exploitation (A/HRC/29/40/Add.2, paras. 69 -70).

B. Education

20. Intersectional discrimination affects the ability of women and girls to enjoy their right to education. The lack of access to quality education has a detrimental impact on their autonomy, opportunities and choices later in life, including with regard to employment and income, and health (see also A/HRC/35/11).

21. The Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child have drawn attention to the lack of access to education, prevalence of high school dropout rates and/or low enrolment rates among specific groups of girls, such as migrant and refugee girls, or on the basis of their sex and ethnicity, religion or work and descent in Albania, Bosnia and Herzegovina, China, Croatia, Czechia, Germany, India, Peru, Serbia, Spain and the former Yugoslav Republic of Macedonia.[11] The Working Group on the issue of discrimination against women in law and in practice found that, in Peru, the school dropout rate among indigenous girls aged between 12 and 16 years was 89.1 per cent (A/HRC/29/40/Add.2, para. 68). A survey conducted on discrimination against and the living conditions of Roma women in 11 Member States of the European Union showed that only 23 per cent of them remained in school after the age of 16, compared to 32 per cent of Roma men.[12]

22. High school dropout and low enrolment rates among women and girls affected by intersectional discrimination are closely linked to a combination of related multiple barriers that may include lack of access to gender-sensitive and intercultural education, lack of financial resources, lack of access to health services, including sexual and reproductive health services, unpaid care work, and the high prevalence of sexual and other types of violence (see A/HRC/35/11).

23. Discriminatory attitudes based on race, ethnicity, work and descent, gender or religion held by education personnel and fellow students may also prevent girls from having access to and remaining in school. Educational curriculum and teaching materials may reflect stereotypes and biases based on gender, race, ethnicity, work and descent, religion or other reason, and thus aggravate discrimination and lead to violence against women and girls in education.

24. Educational policies that support the exclusion of specific groups intersect with gender-related barriers and may compound discrimination experienced by girls. The Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights in their concluding observations (CERD/C/DEU/CO/19-22, para. 13; CERD/C/MKD/CO/8-10, para. 17(a); CERD/C/CZE/CO/10-11, para. 17; CERD/C/SRB/CO/1, para. 15; CERD/C/SVK/CO/6-8, para. 11 and 16;

[11] CEDAW/C/HRV/CO/4-5, para. 36; CEDAW/C/CHN/CO/7-8, para. 34; CEDAW/C/PER/CO/7-8, paras. 29 and 30; CEDAW/C/BIH/CO/4-5, para. 31; CEDAW/C/CZE/CO/5; CEDAW/C/DEU/CO/6; CEDAW/C/SCG/CO/1; CEDAW/C/BIH/CO/3; *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 38* (A/55/38); *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38* (A/59/38); E/C.12/ALB/CO/2-3; CRC/C/15/Add.185; and CRC/C/15/Add.118.

[12] European Agency for Fundamental Rights, "Discrimination against and living conditions of Roma women in 11 EU Member States", Roma survey: Data in Focus, October 2014, p. 13.

CERD/C/HRV/CO/8; CERD/C/USA/CO/6; CERD/C/IND/CO/19; CERD/C/304/Add.109, para. 9; CERD/C/SVK/CO/9-10, para. 11; CCPR/C/MKD/CO/2; CCPR/C/USA/CO/3/Rev.1; CCPR/CO/72/CZE; CRC/C/CZE/CO/3-4, para. 65, E/C.12/UKR/CO/6, para. 25), the Working Group on the Universal Periodic Review (A/HRC/32/15, para. 120.76; A/HRC/26/12, para. 110.131; A/HRC/22/3, para. 94.113; and A/HRC/17/17, para. 77.49) and the Independent Expert on minority issues (A/HRC/19/56/Add.2) have addressed the educational segregation of refugee women and girls or on the basis of their ethnicity or work and descent in States such as Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Estonia, Germany, India, Latvia, Serbia, Slovakia, the former Yugoslav Republic of Macedonia, Ukraine and the United States of America. The Committee on the Elimination of Discrimination against Women has also drawn attention to the fact that girls in Bosnia and Herzegovina are discriminated by mono-ethnic school systems, which have a negative impact on their education opportunities (CEDAW/C/BIH/CO/4-5, para. 31).

C. Health

25. Factors such as race, work and descent or ethnicity have an impact on the access of the women and girls to sexual and reproductive health services and information, and the quality of medical treatment they receive. For ethnic minority women in Viet Nam, more than 60 per cent of all childbirths are without prenatal care, twice as many as for the majority Kinh women.[13]

26. Evidence shows that women with low social status or women who are economically excluded are disproportionately affected by maternal death. In the case of *Alyne da Silva Pimentel Teixeira (deceased) v. Brazil*, the victim, a woman of African descent, died after a stillbirth and serious postnatal complications owing to the denial of access to quality health care. The Committee on the Elimination of Discrimination against Women concluded that Alyne da Silva Pimentel Teixeira was discriminated against not only on the basis of her sex but also of her status as a woman of African descent and her socioeconomic background (CEDAW/C/49/D/17/2008, para. 7.7). According to the Gender Equality Observatory for Latin America and the Caribbean, in 2013, maternal mortality in the region Ngöbe-Buglé, in Panama, was 344 deaths per 100,000 births, against a national average of 71.[14]

27. Poverty is often aggravated by the absence of universal health care, which can further marginalize low-income groups. The Working Group on discrimination against women in law and in practice found that, in the United States of America, 28 per cent of people living in poverty were still uninsured in 2015; African-American and Hispanic women were disproportionally affected (A/HRC/32/44/Add.2, para. 61).

28. Women and girls affected by intersecting forms of violence and discrimination often lack access to information about the availability of services, their rights and entitlements. Intercultural and gender-sensitive services are often not available. Qualitative interviews with health providers servicing indigenous communities in Latin America found that providers themselves expressed difficulties in assisting indigenous women, often because of

[13] *World Development Report 2012: Gender Equality and Development* (World Bank, Washington, D.C., 2011), p. xxi.

[14] Observatorio de Igualdad de Género de América Latina y el Caribe, *Mujeres indígenas en América Latina: Dinámicas demográficas y sociales en el marco de los derechos humanos*, 2013, p. 66.

an inability to adequately communicate or understand their cultural practices.[15] Specific groups of women and girls are also often disproportionately affected by language barriers.

29. Women from particular ethnic or racial groups can face greater risk of forced sterilization, forced pregnancy or restrictions on the number and spacing of children. The forced sterilization of women from particular ethnic or racial groups in States such as China, Czechia, Peru and Slovakia has been addressed by the Committee on the Elimination of Racial Discrimination (CERD/C/CZE/CO/10-11, CERD/C/PER/CO/18-21 and CERD/C/SVK/CO/9-10), the Committee on the Elimination of Discrimination against Women (CEDAW/C/SVK/CO/5-6, CEDAW/C/CZE/CO/5 and CEDAW/C/CHN/CO/6), the Committee on Economic, Social and Cultural Rights (E/C.12/PER/CO/2-4) and the Working Group on the Universal Periodic Review (A/HRC/12/17). Ethnic and religious minority women in Myanmar are also affected by laws and local orders that coerce them to use contraception and restrict the number and the spacing of their children (A/HRC/32/18, paras. 20 and 43).

30. Intersecting forms of discrimination and violence can cause mental health problems, such as depression or anxiety. In Austria, Italy and Sweden, migrant women are more often affected by psychosocial disabilities, such as severe anxiety, and attempt suicide more often.[16]

D. Violence against women and girls

31. Stereotypes and prejudice based on a combination of factors, including race, ethnicity, work and descent, religion and gender, expose women and girls to a greater risk of being targeted by various forms of violence. According to the European Union Agency for Fundamental Rights, attacks against women who are visibly Muslim have been reported for a number of countries where the majority of Islamophobic acts committed in 2015 targeted women (74 per cent in France and 90 per cent in the Netherlands).[17] The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance found that political parties with anti-immigrant and anti-minority agendas play a significant role in fostering fears among the population against a single religion, also noting the detrimental effects on Muslim women (A/HRC/15/53, paras. 59-60).[18] The Special Rapporteur on minority issues found that Roma women were stereotyped as promiscuous, which exposed them to a heightened risk of exploitation and sexual and gender-based violence (A/HRC/29/24, para. 34).

32. Women and girls experience violence at the hands of a variety of actors. The Working Group on the issue of discrimination against women in law and in practice noted that indigenous women in the United States of America are more than twice as likely as other women to be victims of violence, and that one in three will be raped during her lifetime. It was estimated that nearly 80 per cent of rapes of indigenous women were by non-indigenous men. The Working Group also referred to reports of police brutality and an increased number of homicides of African-American women by the police (A/HRC/32/44/Add.2, para. 78).

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[15] United Nations Population Fund (UNFPA), *State of world population 2012*, 14 November 2012, p. 56.

[16] See European Union Agency for Fundamental Rights, *Inequalities and multiple discrimination in access to and quality of healthcare*, Luxembourg, 2013, p. 37.

[17] European Union Agency for Fundamental Rights, Current migration situation in the EU: hate crime, November 2016, p. 6.

[18] See also A/HRC/32/50, para. 63.

33. Women and girls from ethnic and religious minorities and indigenous populations can be at particular risk of grave human rights abuses during conflict, including forced pregnancy, systematic rape, sexual abuse or sexual slavery.[19] Ethnic or race-based violence against women has been recognized as a weapon of war by both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and prosecuted accordingly.[20] Recently, in South Sudan, Sudanese People's Liberation Army (SPLA) soldiers reportedly raped Nuer women; reports also referred to the targeted killing of Dinka women and children in Juba (A/HRC/34/63, paras. 26 and 32). In Myanmar, sexual and gender-based violence has reportedly been committed against members of minority ethnic and religious groups (A /HRC/32/18, paras. 32 and 60).[21]

34. Women have also been increasingly targeted by violent extremist and terrorist groups, who often see them as the repositories of cultural identity (S/2016/361, para. 21). In Nigeria, Cameroon, Chad and the Niger, grave human rights abuses against women and girls have reportedly been committed by Boko Haram, including killings, abduction, forced religious conversion to Islam, repeated beatings, forced marriage, forced pregnancies, forced labour and sexual slavery, violence and exploitation (see A/HRC/30/67). Similarly, in the Syrian Arab Republic, women and girls from the Yazidi community have been targeted by the so-called Islamic State in Iraq and the Levant (ISIL).[22]

35. Women and girls make up around 50 per cent of any refugee, internally displaced or stateless population.[23] Discrimination, inequality and violence are all significant drivers of precarious large-scale migration movements. On their journey and at their destination, many women and girls continue to experience violations of their rights at the hands of a variety of actors, such as members of their own family, social networks, employers, border guards, police officers, detention personnel, service providers, traffickers or abusive smugglers (see A/HRC/33/67).[24] A recent report jointly prepared by the United Nations Support Mission in Libya (UNSMIL) and OHCHR showed how women migrants in Libya are exposed to a number of human rights abuses, including rape and other sexual violence.[25] The Committee on the Elimination of Racial Discrimination expressed its concern at the abuse of indigenous women migrants from Guatemala, Honduras and Nicaragua when travelling through or arriving in Mexico, their vulnerability to kidnapping, torture and murder, and the discrimination and xenophobia that prevents them from seeking assistance and protection (CERD/C/MEX/CO/16-17, para. 20).

36. The Durban Programme of Action recognized that "root causes such as poverty, underdevelopment and lack of equal opportunity are often linked to discriminatory

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[19] Committee on the Elimination of Discrimination against Women, general recommendation No. 30.

[20] "At the crossroads of gender and racial discrimination", available from www.un.org/WCAR/e-kit/gender.htm. See also the United Nations Children's Fund (UNICEF), the United Nation Entity for the for Gender Equality and the Empowerment of Women (UN-Women), UNFPA, ILO and the Office of the Special Representative of the Secretary-General on Violence against Children, *Breaking the silence on violence against indigenous girls, adolescents and young women: a call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America*, 2013, p. 6.

[21] See also A/HRC/17/9, recommendation 107.67.

[22] See A/HRC/32/CRP.2.

[23] Office of the United Nations High Commissioner for Refugees (UNHCR), "Ending Statelessness", see www.unhcr.org/women.html.

[24] See also OHCHR, *Behind closed doors: protecting and promoting the rights of migrant domestic workers in an irregular situation*, New York and Geneva, 2015.

[25] UNSMIL and OHCHR, "Detained and dehumanised", report on human rights abuses against migrants in Libya, 13 December 2016.

practices that cause women's and children's vulnerability to trafficking, and give rise to racism, racial discrimination, xenophobia and related intolerance". The Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women have, in their concluding observations, referred to the trafficking of minority or indigenous women, including for purposes such as sexual exploitation or forced labour, in Japan, Germany, Bosnia and Herzegovina and the Congo (see CERD/C/JPN/CO/7-9, para. 16; CRC/C/COG/CO/2-4, para. 72; and CCPR/C/BIH/CO/1, para. 16).[26]

37. Data on violence against specific groups of women and girls are often missing or inaccurate. The lack of data at the national level on the extent of violence against migrant women and girls as alarming.[27] The identity of women or girls often remains unrecorded, while the lack of culturally appropriate and gender-sensitive assistance and services, and the lack of legal protection, including for survivors of violence, may contribute significantly to the underreporting of such violence.

E. Women's autonomy, and the participation and representation of women in public life

38. Intersectional discrimination renders affected women and girls invisible in decision-making processes in their families, communities and society at large. The representation of women of African descent, for instance, is low even in countries where women increasingly participate in the work of executive and legislative branches.[28]

39. Women affected by intersecting forms of discrimination and violence may face restriction on their rights to freedom of association, peaceful assembly and collective bargaining. Women working in informal sectors and economically marginalized areas, including migrant women workers, are often excluded from national labour laws. They are poorly represented in trade unions or in other forms of organizations. They are therefore unable to promote agency or to raise their collective voice to claim their rights.[29]

40. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted how legislative provisions that prohibit the wearing of religious symbols, such as the Islamic veil, are discriminatory towards certain specific groups of women and undermine their fundamental freedoms, including their right to participate in public life (A/HRC/15/53, para. 59).

41. Women and girls may face greater risk of targeted violence in the public sphere. Cases of sexual violence perpetrated against women, including from ethnic and religious groups, to control, punish them for their perceived "countercultural" behaviour, or relegate them to the private sphere, have been reported. For instance, in the Central Africa Republic, Christian women have been raped for trading with members of the Muslim community (S/2016/361, para. 13).

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[26] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38* (A/59/38).

[27] See European Union Agency for Fundamental Rights, "Thematic focus: Gender-based violence".

[28] Ana Irma Rivera Lassén, "Afrodescendant women: our gaze fixed on the intersections of race- and gender-based organizing", Concept Document, Challenges and Opportunities of the Economic Empowerment of Afrodescendant Women, ECLAC, Brasilia, 13-16 July, 2010.

[29] "Cooperating out of isolation: the case of migrant domestic workers in Kuwait, Lebanon and Jordan", working paper, ILO Regional Office for Arab States, 2015.

F. Equality before the law and access to justice

42. Harmful stereotypes and bias by State officials, including the police and organs of the criminal justice system, can lead to discrimination against women and girls affected by intersectional discrimination, resulting in violations of the rights to equal treatment before the law, fair trail and access to remedies. For instance, an inquiry conducted by the Committee on the Elimination of Discrimination against Women found that Aboriginal women in Canada were reluctant to report violence to the police mainly owing to police behaviour and bias, and that stereotypical attitudes towards Aboriginal women often had a negative impact on the quality of police investigation (CEDAW/C/OP.8/CAN/1, paras. 138 and 205).

43. The ability of women in vulnerable situations, including among indigenous women, minority women and women with disabilities, to have access to justice is inextricably linked to factors such as poverty, access to health and education, and recognition of their rights relating to land, resources and their status in society (see A/HRC/27/65). These factors may also increase the likelihood of women being detained.[30] In many countries, women from minorities and indigenous groups represent the fastest growing segment of the prison population; for example, the Special Rapporteur on violence against women, its causes and consequences, found that Aboriginal and Torres Strait Islander women and girls accounted for the largest prison population group in Australia, with legal frameworks and socioeconomic disadvantages contributing to this overrepresentation.[31]

44. The discriminatory implementation of laws, for example on nationality and citizenship, also create barriers to the full and equal realization of the rights by specific groups of women and girls. Minority, indigenous, migrant or refugee women are often confronted with such barriers when seeking access to services for formal registration of births, marriage, residence and other documents or relevant information on their rights (A/HRC/23/50, para. 86). The Committee on the Elimination of Discrimination against Women found that stateless women and girls face heightened risks of abuse in times of conflict because they do not enjoy the protection that flows from citizenship, including consular assistance, and also because many are undocumented and/or belong to ethnic, religious or linguistic minority populations.[32]

45. Discrimination based on gender, race, ethnicity or religion may also result in irregular migration status, which increases the risk of violence, detention and deportation. In the absence of State protection and firewalls that separate service providers from immigration officials, many may be afraid to report abuse and violence, which creates barriers in access to justice and also offers relative impunity to perpetrators.

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[30] See for example OHCHR, Rapport sur la situation des droits des femmes dans les lieux de détention au Sénégal, Dakar, March 2015.

[31] OHCHR, "End of mission statement by Dubravka Šimonović, United Nations Special Rapporteur on violence against women, its causes and consequences, on her visit to Australia from 13 to 27 February 2017", 27 February 2017. See also Amnesty International, "'Heads Held High': keeping Queensland kids out of detention, strong in culture and community", 31 August 2016.

[32] Committee on the Elimination of Discrimination against Women, general recommendation No. 30, para. 60.

IV. Promising practices

A. Legal frameworks, institutions and policies

46. The Durban Declaration and Programme of Action recognizes the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination. It also urges States to address racism and racially motivated violence against women and girls through policies and programmes, protective and preventive measures, effective implementation of national legislation and relevant international instruments.

47. In their submissions, Albania, Bahrain, Colombia, Cuba, Georgia, Kuwait, Mexico, Mali, Norway, Oman, Qatar, Serbia, Slovenia, Spain, Turkey and the United States of America drew attention to legal frameworks, policies, institutions and/or strategies in place to ensure equality and non-discrimination based on grounds such as sex/gender, ethnicity, race or religion to address violence against women and/or racism, racial discrimination, xenophobia and other related forms of intolerance.

48. Mexico, Serbia, Spain, Turkey and the United States of America had rendered the notion of prohibition of intersectional discrimination and the promotion of equality clear in their legal and policy frameworks. Mexico had put in place laws to protect women of African descent, and indigenous and migrant women, which were implemented by national plans and strategies focusing on the eradication of violence, providing access to health and information on sexual and reproductive rights, and had increased capacities, representation and political participation. The United States of America had enhanced the protections available for native American and immigrant women through the Violence against Women Reauthorization Act (2013), which provided resources for States and local communities to improve the response of the criminal justice system to cases of domestic violence, sexual assault, dating violence and stalking, and to support victim services.

49. In Spain, a law on equality between women and men required the public authority to consider the situation of specific groups of women, including minority and migrant women. It also had strategies to provide assistance to Roma women survivors of violence and to promote the empowerment of specific groups of women, including Roma and migrant women, in employment and education, among others. Serbia had implemented a national strategy for gender equality (2016-2020) and a strategy for national protection of Roma (2016-2025), which included measures for specific groups of women. The State's national plan of action for the integration of Roma and other minority groups (2016-2020) tackled the issues of violence against women and children through a package of primary health-care services. Turkey had adopted laws to identify and prioritize persons with special needs in international protection procedures, and had also established procedures to provide support through the issuance of identity documentation and shelters for women survivors of violence.

50. Norway and Guatemala had in place institutions and institutional frameworks to address intersecting forms of discrimination against women and girls. The institutional mandate of the Equality and Anti-Discrimination Ombudsperson in Norway required the Ombudsperson to see the different grounds of discrimination in context, to develop interdisciplinary skills to deal with multiple forms of discrimination and discrimination at the intersection of gender and other grounds of discrimination. Guatemala had specialized institutions for the eradication of racial discrimination and violence against indigenous women and girls; according to the information contained in the submission, achievements had, however, been limited owing to a lack of funding.

51. Colombia and the United States of America had developed multisectoral strategies to address intersectional violence against women and girls. Through a comprehensive multisectoral strategy, Colombia aimed to respond to the needs of survivors of sexual violence in the context of the conflict by means of access to justice, disaggregated information, integrated assistance, and prevention, protection and reparation directed in particular to specific groups women, such as indigenous persons, the Roma and Afro-Colombians. The United States of America was implementing a multi-partner and participatory initiative that brought together a variety of actors from the State, tribal law communities and a non-governmental organization working specifically on the issue of violence against native women, in the first-ever tribal human trafficking task force.

B. Disaggregated data and research

52. The Durban Declaration recognizes the need to develop a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, and also the disadvantages, obstacles and difficulties that women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights because of racism, racial discrimination, xenophobia and related intolerance. Data and research are crucial for the design, implementation, monitoring and evaluation of public policies and resource allocation that are informed by the needs of women and girls facing intersectional discrimination and violence. Data collection should be systematic, and integrate criteria beyond sex and age.

53. Albania, Colombia, Spain and the United States of America were making an effort to strengthen the collection of data based on various grounds. In Colombia, data on discrimination and violence against women and girls were disaggregated on various grounds and collected by the Observatory against Discrimination and Racism, an integrated system on gender-based violence and a national survey on discrimination, the first of its kind. In the United States of America, the Department of Labor and the Equal Employment Opportunity Commission required businesses with 100 or more employees to submit summary pay data disaggregated by sex and race or ethnicity, thereby helping to focus public enforcement of non-discrimination laws. In Albania, the Ministry of Social Welfare and Youth was improving its data collection on specific groups of women, including Roma or other groups of women. The State also produced statistics on primary and secondary education enrolments that were disaggregated by various variables. Spain has made efforts to determine the number of women who benefited from its Roma development programme through the collection of data disaggregated by sex.

54. Some States reported that they were conducting research on issues related to violence against women and girls from indigenous communities. Mexico had published a study on intimate partner violence experienced by indigenous women in three regions in Mexico.[53] In the United States of America, the National Institute for Justice had commissioned research to address gaps in evidence on the prevalence of violence against American Indian and Alaska native women living in Indian Country and Alaska Native villages.[54]

55. OHCHR is developing a set of principles and guidelines on the human rights protection of migrants in a vulnerable situation that will include a principle on data

[53] Instituto nacional de la Mujeres, "Violencia de pareja en mujeres indígenas de tres regiones de la Republica Mexicana 2011"

[54] See National Institute of Justice, Violence against Indian Women National Baseline Study, 21 January 2015.

collection and protection, including data disaggregated by various grounds. OHCHR in Guatemala has conducted studies and published manuals on racial, ethnic and gender-based discrimination against indigenous women.

56. Civil society organizations have also conducted research on the issue. In its submission, the European Network against Racism reported that it and civil society organizations in France and the United Kingdom of Great Britain and Northern Ireland had published a variety of reports exclusively on or containing information about discrimination and violence against women and girls based on various grounds.

C. Monitoring and protection

57. Some countries have put in place or expanded national and multilateral mechanisms for monitoring and protection in order to improve the access of specific groups of women and girls to medical assistance, justice and protection from violence. Turkey has established a support programme for women and girl survivors of human trafficking that provides them with access to health, psychosocial support, legal and social services, education and training, access to the labour market, material support and information. In Mexico, the National Commission for the Development of Indigenous People offers training to advocates from indigenous communities, translators and public servants on the recent reforms of the penal system. At May 2016, the Commission facilitated the release of 386 indigenous women from prison.

58. Canada, Mexico and the United States of America have established the North American Working Group on Violence against Indigenous Women and Girls. In the context of this initiative, the United States of America launched the first crisis line for Alaska native survivors of domestic and sexual violence, and released the first set of uniform clinical care guidelines for the identification of and response to intimate partner violence within a system of medical care and referral that is patient-centred, culturally sensitive and trauma-informed. The United States of America also provides funding to States and State and tribal coalitions to develop more effective responses to violence against women from American Indian and Alaska native populations, and specific cultural and linguistic populations.

D. Capacity-building of professional categories

59. In their submissions, some States explained that they were implementing initiatives to address discrimination and violence against specific groups of women and girls by building the capacity of the judiciary, law enforcement agencies and health-care providers in the use of gender- and culturally sensitive approaches. The United States of America trained and provided technical assistance for crime victim service providers and allied professionals to address language and cultural barriers that intersect with gender in policing, as well as other intersectional issues throughout the criminal justice system. Mexico sought to strengthen indigenous women's access to justice by building the capacity not only of the judiciary but also of translators and advocates from indigenous communities. Mexico has also developed a module for providing culturally sensitive obstetric health services to its indigenous and Afro-descendent populations. Spain has designed a protocol for assistance provided in the context of violence against women in the Roma community, which includes measures to build the capacity of technical personnel working on the issue. The protocol was part of the national strategy for the social inclusion of the Roma population in Spain.

60. Some civil society organizations also reported on efforts being made to build the capacity of professionals to address the issue of intersectional discrimination and violence against women and girls. In Slovenia, Slovene Philanthropy, an association for the promotion of voluntary work, trained policymakers and professionals working with migrants, refugees and asylum seekers on the specific needs of women and girls at risk and affected by multiple forms of discrimination and violence. The Peace Institute provided intercultural training to professionals who assist women and children survivors of violence and abuse.

E. Participation and awareness-raising

61. The Durban Programme of Action sets the tone for the full and effective participation of women and girls affected by racism, racial discrimination, xenophobia and related intolerances by, inter alia, calling upon States to involve affected women at all levels of decision-making related to the eradication of such discrimination and in the design, implementation and evaluation of policies and measures that affect their lives; to empower affected women and girls to fully exercise their rights in all spheres of public and private life; and to strengthen and support relevant actors of civil society working to promote gender equality and the advancement of women subject to multiple discrimination.

62. Mexico, Serbia and Spain described efforts that aim at increasing the participation and representation of affected women and girls. The Constitution of Mexico provides for the political participation of indigenous women and their access to decision-making. The political and public participation and leadership of indigenous women and girls is also promoted through a comprehensive package that consists of legislation, programmes and targeted funding to civil society projects. In Serbia, the national strategy for gender equality includes provisions to promote the exercise of active and passive voting rights by Roma women. Spain has promoted the representation of Roma women's organizations in the State Council of the Roma people through affirmative action. As part of its national strategy for the social inclusion of the Roma population, Spain also provided funding to a women's organization working on issues related to violence against women in the Roma community.

63. The Durban Programme of Action urges States to mainstream a gender perspective in the design and development of measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men. Comprehensive information, communication and education that address harmful stereotypes and attitudes are crucial to the prevention of intersectional discrimination and violence against women and girls. In this context, OHCHR produced the documentary film "I am not here", which reveals the harsh reality of living as undocumented migrant domestic workers through the true stories of three women. Oxfam has launched a campaign to eradicate discrimination, stereotypes and violence against indigenous women in Guatemala.

V. Conclusions and recommendations

64. **States have an obligation to protect all women and girls from intersecting forms of discrimination and violence. The examples compiled in the present report confirm that key gaps persist in a number of areas, including with regard to economic exclusion and poverty, education, health, violence, participation, equality before the law and access to justice.**

65. **The 2030 Agenda for Sustainable Development offers an opportunity to address existing gaps through the implementation of, inter alia, its goals directed towards the promotion of gender equality and women's empowerment, peaceful and inclusive societies and reducing inequality. To deliver on the promise of the 2030 Agenda to leave no-one behind, the High Commissioner recommends that:**

(a) **National legal frameworks expressly and consistently prohibit intersecting forms of discrimination against women and girls, and protect the rights of women and girls affected by them;**

(b) **All laws, policies and practices that legalize and facilitate direct and indirect discrimination and violence against women and girls based on multiple grounds, including race, ethnicity, gender or religion, be abolished, and that non-discriminatory implementation of laws, including those on nationality and citizenship, be ensured;**

(c) **Women and girls affected by intersecting forms of discrimination and violence be afforded equal access to justice and effective means of redress, and gender-sensitive, intercultural and quality education and health services, including sexual and reproductive health services and information;**

(d) **Intersectional analysis be applied in the planning and allocation of public resources, as well as in the design, implementation and review of legislation, policies and programmes, in such areas as migration, development, employment, social protection, poverty reduction, health, education, gender equality, violence against women, racism, racial discrimination and xenophobia, to expose, prevent and respond effectively to the intersecting forms of discrimination and violence faced by women and girls;**

(e) **The participation of women and girls affected by intersecting forms of discrimination and violence be encouraged in public life, collective bargaining and at all levels of policymaking and decision-making processes, including political and institutional, through positive legal measures, affirmative action policies and access to information about rights and entitlements;**

(f) **Systematic and continuous efforts be made to sensitize and build the capacity of professional categories, including the judiciary, the police, border guards, health and education personnel, the public administration, employers and others, to address discriminatory attitudes and stereotypes, to develop an understanding of the intersecting forms of discrimination and violence affecting women and girls, and to apply rights-based and gender and culturally sensitive methods;**

(g) **Legislation, policies and targeted measures be adopted to economically empower women and girls affected by intersecting forms of discrimination and violence by providing employment opportunities, ensuring labour rights, education, training and skills development, access to land, water and financial resources, and gender-sensitive social protection and care services;**

(h) **Monitoring, reporting and protection mechanisms, as well as services, such as emergency helplines, shelters, health and legal services, psychosocial support and trauma counselling, be put in place to assist and safeguard women and girls at risk;**

(i) **National laws, capacities and procedures be strengthened for interpreting grounds of persecution and granting asylum, thereby facilitating international protection for women and girls facing persecution based on a combination of factors, including gender and race, which are often rendered invisible;**

(j) Protection be provided for women and girls on the move who may not qualify for refugee status but find themselves in a vulnerable situation whether as a result of the circumstances they encounter in their country of origin, in transit or at destination, and/or due to inherent characteristics;

(k) The systematic, regular and nationwide collection, integration and dissemination of equality data disaggregated by various grounds be strengthened, while respecting and protecting the right to self-identification and the protection of privacy, and that indicators be developed to measure inequalities on the basis of a combination of such variables as race, ethnicity, religion or gender;

(l) Research and analysis on intersecting forms of discrimination against women and girls be strengthened and used to design and review legislation and policies to better address the rights and needs of women and girls at risk of/or affected by intersecting forms of discrimination and violence;

(m) Efforts be made to implement comprehensive outreach campaigns that bring together the general public, civil society organizations, local governments, educational institutions, the media and artists to dismantle myths, attitudes and stereotypes that discriminate and exclude women and girls on the basis of a combination of factors, such as gender, race, ethnicity and religion;

(n) Relevant intergovernmental reviews, such as for the Sustainable Development Goals and the universal periodic review, address intersecting forms of discrimination and violence against women and girls in the context of racism, racial discrimination and xenophobia;

(o) United Nations human rights mechanisms pay specific attention to the monitoring and analysis of the human rights implications of discrimination based on gender and other grounds.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Realization of the equal enjoyment of the right to education by every girl

Report of the United Nations High Commissioner for Human Rights

Summary

The present report was prepared pursuant to Human Rights Council resolution 32/20. It underlines the multiple and intersecting obstacles that limit effective and equal access of girls to education and highlights good practices to address those barriers. It also contains recommendations on appropriate measures to ensure the equal enjoyment of the right to education by every girl and, in that context, eliminate all gender disparities in education by 2030, in fulfilment of the commitment made in Goal 4 of the Sustainable Development Goals.

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I. Introduction

1. In its resolution 32/20, the Human Rights Council recognized that education was a multiplier right that empowered women and girls to make choices to claim their human rights, including the right to participate in public affairs and to participate fully in the making of decisions that shape society. The Council requested the United Nations High Commissioner for Human Rights to prepare a report, in close cooperation with all relevant stakeholders, on the realization of the equal enjoyment of the right to education by every girl, to be submitted to it at its thirty-fifth session.

2. A note verbale was sent on 11 October 2016, requesting submissions from States and other stakeholders; 35 submissions were received.[1] Further information was obtained from relevant stakeholders by way of reports, correspondence and research.

3. Despite universal recognition of the right to education for everyone, girls are still more likely than boys never to attend school. As of 2014, over 32 million girls of primary school age did not attend school and it is estimated that 15 million girls — mainly those living in poverty — will never set foot in a classroom, compared to 10 million boys.[2] These disparities have also contributed to the fact that women account for nearly two thirds of the world's 758 million adults who cannot read or write, and the gap is even wider in situations of conflict, where girls are nearly two and a half times more likely to be out of school than boys.[3]

4. Despite progress, in particular in primary education, much remains to be done at all levels of education and across regional, national and subnational levels to ensure that every girl has equal right to quality education and is not left behind. With gender equality at the heart of the 2030 Agenda for Sustainable Development, in devising laws, policies and plans to implement it, States must ensure compliance with their international human rights obligations.

II. Legal framework and developments

5. The right to education, including its equal enjoyment by every girl, is universally recognized and guaranteed in many international and regional legal instruments.[4] It consists of four essential and interrelated principles — availability, accessibility, acceptability and adaptability — , which duty bearers have the obligation to respect, protect and fulfil.[5]

6. Although the right to education is subject to progressive realization, and limitations are recognized, international human rights standards nonetheless impose upon States obligations that have immediate effect. For instance, the obligation of non-discrimination applies "fully and immediately to all aspects of education" and "encompasses all internationally prohibited grounds of discrimination".[6] Additionally, States have an

[1] The submissions are available from www.ohchr.org/EN/Issues/Women/WRGS/Pages/EveryGirl.aspx.

[2] UNESCO, *Global Education Monitoring Report 2016: Gender Review — Creating Sustainable Futures for All* (2016), p. 15.

[3] Ibid., pp. 22 and 27.

[4] See, inter alia, the International Covenant on Economic, Social and Cultural Rights, art. 13 (2); the Convention on the Elimination of All Forms of Discrimination against Women, arts. 10, 14 and 16; the Convention on the Rights of the Child, arts. 28-29; the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education and Recommendation against Discrimination in Education; the African Charter on Human and Peoples' Rights, art. 17; the Arab Charter on Human Rights, art. 34; the Council of Europe Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, art. 2; and the American Declaration of the Rights and Duties of Man, arts. 12 and 31.

[5] See E/CN.4/1999/49, para. 50; and Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999) on the right to education, paras.13 and 46.

[6] Convention on the Rights of the Child, art. 2; Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999), para. 31.

immediate obligation to take deliberate, concrete and targeted steps, to the maximum of their available resources, and to move expeditiously and effectively towards fully realizing the right to education.[7]

7. Girls' equal right to education is regularly emphasized in the concluding observations on State party reports by human rights treaty bodies, with 46 references on the subject in 2014 to 2015 alone. Diverse special procedure mechanisms have also taken up the issue in their thematic and country reports and communications. In 2015 and 2016, 51 recommendations relating to girls' right to education were made to States during their universal periodic reviews; 49 were accepted.[8]

8. In addition to the agendas of the Millennium Development Goals (2000-2015) and the Sustainable Development Goals (2015-2030), numerous non-binding political instruments have recognized the need to ensure girls' equal right to education, including the International Conference on Population and Development (1994); the Beijing Declaration and Platform for Action (1995); the Dakar Framework for Action (2000); the Incheon Declaration and Framework for Action (2015); and the United Nations Girls' Education Initiative.

III. Obstacles to girls' access to education

9. Multiple and intersecting obstacles limit the enjoyment of the right to education by children around the world. While some of these affect girls and boys alike, those highlighted below illustrate specific hurdles faced by girls.

A. Gender stereotypes

10. Gender stereotypes about the role of women as relegated to the family sphere underpin all obstacles to girls' equal access to quality education.[9] Girls are often socialized to assume domestic and care responsibilities, with the assumption that they will be economically dependent on men. The stereotype of men as breadwinners leads to the prioritization of boys' education. Stereotypes often dictate different expectations for boys and girls, such as completion of education and fields of study to pursue. Stereotypes are also perpetuated in school curricula and materials, which often leads to occupational gender segregation, with girls less likely to study and pursue careers in highly valued professional and traditionally male-dominated fields, such as science, technology, engineering and mathematics.[10]

11. Education can contribute to dismantling harmful gender stereotypes and norms, which have long-lasting and wide-ranging impacts on all aspects of girls' and women's lives.

12. El Salvador, Estonia, Lithuania, Slovakia, Spain, Mexico and Equality Now recognized that gender stereotyping was a central challenge to girls' access to education. Burkina Faso, Cuba, France, Mali, Mauritius, Nicaragua, Slovenia and Defence for Children International emphasized their engagement in awareness-raising initiatives with parents, families, community and religious leaders, and the media with a view to addressing harmful views and beliefs. Georgia and Ireland reported that they had taken specific measures to promote careers for women in science, technology, engineering and mathematics. The United Arab Emirates highlighted the establishment of the Centre for Creativity and Innovation for women and girls, with the aim of promoting equal

[7] Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999), paras. 43-45.

[8] See also A/HRC/30/23.

[9] See Committee on the Rights of the Child, general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, paras. 27-28; Office of the United Nations High Commissioner for Human Rights (OHCHR), "Gender stereotyping as a human rights violation" (October 2013), pp. 8-9.

[10] UNESCO, *Global Education Monitoring Report 2016*, p. 34.

opportunities in information and communications technology, including through training, research and innovative applications. Saudi Arabia reported that it provided awareness-raising training and programmes to limit and prevent infrequent school attendance and girls' dropping out.

13. International human rights standards specify that States' obligation to eliminate discrimination against girls and boys includes dismantling stereotyping by taking proactive measures — in cooperation with girls and boys, women and men, civil society, and community and religious leaders — to promote girls' empowerment and eliminate harmful gender stereotypes in both public and private life.[11]

14. Human rights treaty bodies have recommended that States take comprehensive measures to overcome gender stereotypes that discriminate against and act as a barrier to the education of girls.[12] Stereotypical beliefs among parents, teachers and community leaders regarding the importance and value of education for girls should be challenged. Comprehensive strategies to eliminate negative attitudes, practices and stereotypes should be formulated, including in the context of education, with the involvement of girls. They should have clearly defined targets and appropriate monitoring mechanisms.[13]

B. Legislation, policies and budgets

15. Several States have laws and policies that curtail girls' equal enjoyment of the right to education.[14] Even apparently gender-neutral laws and policies can — often owing to prevailing social norms — result in girls being left out of school,[15] such as those that fail to provide goods and services targeting girls' needs or that do not explicitly protect girls' rights to make decisions about their bodies and life choices. These include laws and policies that allow child marriage, permit discriminatory school admission criteria, such as excluding pregnant girls, and restrict girls' freedom of movement. Plan International and the National Youth Council of Ireland noted that girls' voices are not always heard, which leads to the development of laws and policies that do not reflect their views, needs and experiences.

16. Repealing discriminatory laws and policies and adopting measures to advance gender equality that specifically combat discrimination in education are critical. The adoption of legal and policy frameworks to guarantee girl's equal access to education, including in the context of the implementation of the Sustainable Development Goals, was highlighted by several States, including Brunei Darussalam, Burkina Faso, Colombia, Cuba, El Salvador, Estonia, Finland, France, Georgia, Lithuania, Mali, Mexico, Monaco, Montenegro, Qatar, the Russian Federation, Saudi Arabia, Slovakia, Spain and the United Arab Emirates.

17. Laws and policies must be effectively implemented, monitored and evaluated, and involve meaningful participation and awareness of their rights by girls and boys.[16] Adequate financial resources and direct, transparent, gender-sensitive budgeting for

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[11] See for example, the Convention on the Elimination of All Forms of Discrimination against Women, arts. 5 and 10 (c); the Convention on the Rights of the Child, art. 2; Committee on the Rights of the Child, general comment No. 20 (2016), para. 28; Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999), para. 55.

[12] See CEDAW/C/GRC/CO/7, para. 27 (b); CEDAW/C/ALB/CO/3, para. 31; CEDAW/C/BEN/CO/4, para. 27 (c).

[13] See CEDAW/C/BFA/CO/6, para. 32; Committee on the Rights of the Child, general comment No. 20 (2016), para. 69; CRC/C/IRQ/CO/2-4, paras. 17-18.

[14] World Bank, *Women, Business and the Law 2016: Getting to equal* (2015), pp. 4-5.

[15] OHCHR, *Project on a Mechanism to Address Laws that Discriminate against Women* (March 2008), p. 6.

[16] See A/HRC/26/39, para. 15; Committee on the Rights of the Child, general comment No. 12 (2009) on the right of the child to be heard, paras. 105-114.

education is also required,[17] otherwise, higher out-of-pocket costs and limited available spaces will lead to competition among girls and boys for places in schools. Compounded with gender inequalities and labour laws, policies and markets that favour men may, in turn, result in prioritization of boys' education at the expense of girls.

18. States have an obligation to seek international assistance and cooperation when their resources are insufficient. International partners can provide financing and resources, which should be coordinated, sustainable and monitored, and effectively target girls most at risk of being left behind.[18]

19. Every girl should have access to and be informed about child-friendly, gender-sensitive and safe judicial and non-judicial remedies when their rights, including to education, are violated.[19] Without effective and comprehensive accountability at the national level, all human rights, including the right to education, are but hollow promises. It is crucial that the right to education be justiciable as a legal right and an enforceable entitlement.[20] National human rights institutions could play a stronger role in monitoring equal access of girls to education, and receiving and adjudicating complaints.[21]

C. Costs

20. Girls are more likely to perform poorly at school and drop out when parents or guardians live in poverty and/or cannot afford to pay school expenses, such as school fees, textbooks, uniforms, transportation and lunches. This is compounded by gendered expectations related to domestic and care responsibilities, and parental biases towards boys' education for them to have better career prospects.

21. Many States indicated that they provided free primary and secondary education for girls and boys, with some covering indirect costs such as uniforms, materials, lunches and transportation.[22] El Salvador indicated that it provided free education at all levels and had also implemented a programme that provided free lunches, uniforms and school supplies; Mauritius stated that it provided all students with free transportation; and Oman highlighted that it awarded 500 full scholarships annually for higher education to girls who completed secondary school with an 80-per cent grade point average.

22. Quality education must be economically accessible to everyone without discrimination, and every girl has the equal right to the same opportunities to benefit from scholarships and study grants.[23] Where quality primary education is available free of charge, States are also required to progressively introduce free quality secondary education for all.[24] Special temporary measures, such as financial transfer schemes and programmes that incentivize girls going to school, have increased girls' enrolment rates and contributed to changing attitudes towards girls' education.[25] Such measures should be gender-sensitive, specifically targeted to girls most at risk of being left behind, and their impact should be carefully assessed.

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[17] Committee on the Rights of the Child, general comment No. 19 (2016) on public budgeting for the realization of children's rights, paras. 41-44; CEDAW/C/PER/CO/7-8, paras. 13-14; A/HRC/26/39, para. 23.

[18] OHCHR, "Attacks against girls seeking access to education", Background paper (2015), p. 25.

[19] Convention on the Rights of the Child, art. 12 (2); Committee on the Rights of the Child, general comment No.12 (2009), para. 47; A/HRC/26/39, para. 105.

[20] See A/HRC/23/35, para. 58.

[21] See submission from Honduras.

[22] See submissions from Burkina Faso, Colombia, Finland, Mali, Qatar, the Russian Federation, Saudi Arabia and the United Arab Emirates.

[23] Convention on the Elimination of All Forms of Discrimination against Women, art. 10; Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999), para. 6 (b).

[24] Convention on the Rights of the Child, art. 28 (1); International Covenant on Economic, Social and Cultural Rights, art. 13 (2).

[25] See A/HRC/26/39, para. 37; United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), *Progress of the World's Women 2015-2016*, p. 138; submission from Burkina Faso.

D. Privatization

23. The expansion of privatized education may raise the cost of quality education and lead to disinvestment in public education, which could further entrench gender inequality in society.[26] Many private schools have discriminatory admission requirements and are profit driven, and therefore not universally and equally accessible. They do not always follow the national curriculum or employ qualified teachers; some may not be registered with the national authorities or may be privately managed with limited government oversight, accountability or adherence to national prescriptive regulations. All these factors can limit girls' participation in school, intensify prioritization of boys' education and perpetuate discriminatory curricula, especially when the prevalence of privatized education leads to reduced free and accessible public education options.[27]

24. States have the obligation to protect girls against exclusion from and interference by third parties in quality education, including private entities and non-State organizations such as religious or community schools or schools run by non-governmental organizations. Even where private education systems exist, States remain responsible for respecting, protecting and fulfilling every girl's right to education. The Special Rapporteur on the right to education called upon States to "put in place an elaborate framework of regulations that are prescriptive, prohibitory and punitive, in order to control private providers", "undertake full-scale investigations of fraudulent practices" and "preserve education as a public good".[28]

E. Distance

25. When schools are far from homes, such as in rural and remote areas, the likelihood of girls' non-attendance increases. Girls are also particularly affected when their freedom of movement is restricted, for instance, by discriminatory laws that require permission to travel by a male relative and/or parents' reluctance to allow girls to travel long distances alone owing to safety considerations. Girls in remote and rural settings also tend to drop out of school more regularly than other girls owing to often exacerbated expectations relating to childcare, seasonal work or fetching firewood and water. Those girls make up a large proportion of the national illiteracy rate.[29] Even when schools exist nearby, the quality of education offered may impact girls' enrolment, attendance and completion.

26. States can bring education closer to home, including by ensuring that education plans and policies are sensitive to local realities and responsive to the specific needs of all children; by implementing alternative learning programmes, including the use of ICT to deliver courses, where appropriate platforms and quality assurance can be guaranteed;[30] and by providing safe facilities for girls attending boarding school and affordable forms of transportation to/from school.[31] The United Nations Children's Fund (UNICEF) highlighted its guidelines for gender-responsive sector planning that was rolled out with the United Nations Girls' Education Initiative and the Global Partnership for Education.

27. States have an obligation to ensure that quality education is physically accessible for all girls, including girls in rural and remote areas. States should, inter alia, improve educational infrastructure in rural areas; increase the number of qualified teachers,

[26] See A/HRC/34/27, para. 33.
[27] See A/HRC/29/30, paras. 35, 57, 116 and 120.
[28] Ibid., paras. 116-132.
[29] Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016) on the rights of rural women, paras. 42-43; UNESCO, *Global Education Monitoring Report 2016*, pp. 18-19 and 28.
[30] Submissions from UNESCO, Estonia and the Russian Federation.
[31] See CEDAW/C/SLB/CO/1-3, paras. 32 (a) and 33 (a).

including women; ensure culturally appropriate education in local languages and safe, affordable and accessible gender-sensitive transportation. [32]

F. Education infrastructure

28. Girls may be unwilling to attend school or discouraged from doing so by parents or guardians when schools do not provide water, safe and separate toilets/changing rooms nor take into account girls' particular health needs. Their concentration and participation in class may also be negatively affected in those circumstances. Social stigma around menstruation and HIV/AIDS, for example, often leads to additional discrimination and may further compel a girl to remain at home.[33]

29. States should ensure that schools have adequate and safe drinking water; separate, accessible and sheltered toilets for girls; and hygiene education and resources for menstrual hygiene, with attention to girls with disabilities.[34]

G. School regulations and dress codes

30. School admission practices and regulations that are not gender-sensitive and that discriminate on the basis of sex or gender limit girls' equal enjoyment of the right to education, including different admission criteria for girls and boys to secondary school or higher education or the exclusion of girls from physical education and extracurricular activities. Girls may risk expulsion, public shaming and disciplinary sanctions, including flogging, lashing and other forms of gender-based violence, for non-compliance with the school dress code; and may be discouraged or prevented by parents from attending school if they must either wear or remove religious symbols.[35]

31. Under international human rights law, a legal ban on wearing religious symbols and clothing in schools may be in contravention of the best interests of the child principle, and the child's right to freedom of expression, education and freedom to practise or manifest a religion.[36] All children should participate equally in adopting and addressing regulations such as school dress codes. Cuba highlighted the participation of girls and boys in the elaboration and application of school regulations and the incorporation of a gender-sensitive approach to promoting practices that foster equality. States should carefully consider and closely monitor how dress codes impact girls' access to education.[37]

H. Inclusive and quality learning environment

32. The prevalence of explicit and implicit discriminatory curricula, textbooks, materials and teaching methods can reinforce, foster and normalize discrimination. Unqualified teachers may push girls into non-professional courses, overlook them in classroom discussions and be biased towards boys in terms of grades, opportunities, praise and punishment.

33. Cuba, Estonia, Finland, Mexico, Nicaragua, Slovenia and Spain highlighted the integration of gender equality in national school curricula, teacher training, revision of

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[32] Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016), paras. 43 (e) and 87.

[33] OHCHR, "Information series on sexual and reproductive health and rights" (2015); A/HRC/32/44, paras. 68-70.

[34] Committee on Economic, Social and Cultural Rights, general comment No. 15 (2002) on the right to water, paras. 11-12; A/HRC/33/49, para. 50.

[35] See, for example, A/HRC/31/79, p. 47, SDN 5/2015.

[36] See CEDAW/C/FRA/CO/6, para. 20; CEDAW/C/TKM/CO/3-4, para. 20; communication No. 931/2000, *Hudoyberganova v. Uzbekistan*, Views adopted on 5 November 2004; communication No. 1852/2008, *Singh v. France*, Views adopted on 1 November 2012.

[37] See CRC/C/15/Add.240, paras. 25-26.

textbooks and dissemination of information on gender equality. Schools on Brunei Darussalam provided platforms for girls to participate in extracurricular activities.

34. States have an obligation to periodically review and revise curricula, textbooks, programmes and teaching methods to ensure that they do not perpetuate harmful gender stereotypes.[38] States should ensure that human rights education, including on gender equality and non-discrimination, is part of the core curricula, that teachers are systematically trained on gender equality and that girls and boys are encouraged to select non-traditional fields of study, including through academic counselling.[39]

35. Girls' equal enjoyment of the right to education also involves sensitivity to differences in skills, knowledge and language competencies, the presence of qualified female teachers, who can be role models, and the existence of student clubs and mentorship programmes.[40] States should ensure a gender balance among teaching staff and in school administrations, including at the senior levels, and the curricula in gender-segregated schools should be the same for girls and boys,[41] so that girls can enjoy the same courses and activities, including sports as boys.[42]

36. Comprehensive sexuality education is often biased, censored, narrowed to biology, age restricted, subject to third party authorization or even excluded from the school curriculum. However, access to comprehensive sexuality education, defined as an "age-appropriate, culturally relevant approach to teaching about sexuality and relationships by providing scientifically accurate, realistic, non-judgmental information",[43] will ensure that girls and boys can make informed decisions about their sexual and reproductive health. It is key for the empowerment of every girl and for combating harmful practices, unwanted pregnancies and sexually transmitted infections, including HIV. Many States, including Colombia, Cuba, El Salvador, France, Mexico and Nicaragua, recognized the importance of comprehensive sexuality education.

37. International human rights mechanisms have clearly established that everyone has a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, non-biased, evidence-based and scientifically accurate and takes into account the evolving capacities of children and adolescents.[44] In the context of ensuring the equal right of girls to quality education, States are obligated to provide education on sexual and reproductive health, ensure that it is part of the mandatory school curriculum and delivered through a holistic approach that is gender- and disability-sensitive and promotes women's rights and gender equality.[45]

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[38] Convention on the Elimination of All Forms of Discrimination against Women, art. 10; Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999), paras. 50 and 55; Committee on the Rights of the Child, general comment No. 1 (2001) on the aims of education, para. 10; CEDAW/C/AFG/CO/1-2, para. 33.

[39] Committee on the Rights of the Child, general comment No.1 (2001), paras. 2-3; Committee on the Elimination of Discrimination against Women, general recommendation 34 (2016), para. 43; Committee on Economic, Social and Cultural Rights, general comment 16 (2005), para. 30; General Assembly resolution 66/137.

[40] See submissions from Alice Saisha and Defence for Children International; UNESCO, *From Access to Equality: Empowering Girls and Women through Literacy and Secondary Education*, 2nd ed. (2012), p. 33.

[41] See CEDAW/C/GEO/CO/4-5, para. 27 (d); Plan International, *Girls' Learning: Investigating the classroom practices that promote girls' learning* (January 2013).

[42] Convention on the Elimination of All Forms of Discrimination against Women, art. 10 (b) and (g); A/HRC/32/33, paras. 5, 29, 34 and 101 (e).

[43] UNESCO and others, *International Technical Guidance on Sexuality Education*, vol. 1: the rationale for sexuality education (December 2009).

[44] Convention on the Rights of the Child, art. 24 (2) (f); Convention on the Elimination of All Forms of Discrimination against Women, art.12 (2); Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016), paras. 9 and 49 (f); A/65/162, para. 75.

[45] Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016) on the right to sexual and reproductive health, para. 47; Committee on the Elimination of Discrimination against Women, general recommendations No. 24 (1999) on women and health, para. 18; Committee on the

I. Child pregnancy

38. Prohibitive laws or regulations often deny pregnant girls access to school on the premise that girls stop being children once they become pregnant. They are also often not provided with adequate support and services during their pregnancy nor after they give birth. Mexico recognized the challenges that pregnant girls faced and provided grants to enable pregnant adolescents (12 to 18 years) to complete their education.

39. Every girl has the right to remain in school when she is pregnant and to be reintegrated into school, including through publicized non-discriminatory laws and policies, after she gives birth.[46] Stigma and bullying by students and teachers must be addressed so that they have a safe learning environment in schools.[47] States should ensure that childcare facilities, breastfeeding rooms and counselling are available to pregnant and nursing girls, including on school premises.[48]

J. Gender-based violence

40. Girls are often subjected to gender-based violence on the way to/from and in school, including sexual harassment, assault, abduction, psychological attacks and bullying, perpetrated predominantly by male students, teachers and community members, but also by women and girls, often with impunity. Such violence may target girls who attend school or girls, parents and teachers who promote gender equality and girls' right to education. Documented cases of attacks against girls accessing education, in particular in the context of violent extremism, are on the rise around the world. Yet, few States have specific legislation on gender-based violence in schools or collect the necessary data to effectively address it or integrate gender considerations into efforts to prevent and counter violent extremism.[49]

41. School-related gender-based violence often leads to girls' removal from school owing mainly to concerns for their "marriageability" and attitudes relating to so-called honour.[50] Such violence commonly leads to trauma and stigmatization, and sometimes pregnancy, which significantly curtail the victim's access to education.

42. Various measures have been taken to address this issue, including confidential school monitoring and reporting mechanisms; child-friendly courts; public registers of sexual offenders and prohibition from working with children; capacity-building for law enforcement officials; and rehabilitation services for victims.[51] UNESCO highlighted the "Global guidance on school-related gender-based violence", which provides useful approaches, methodologies, tools and resources to address school-related gender-based violence.

43. States have an international legal obligation to take appropriate and effective measures to protect girls against all forms of gender-based violence by both public and private actors,[52] including the obligation to act with due diligence to prevent and investigate cases of gender-based violence, including by teachers, to duly prosecute and hold perpetrators accountable and to ensure the right of victims to an effective, child-friendly

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Rights of the Child, general comment No. 20 (2016), para. 61; Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, para. 40.

[46] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, para. 69 (a).

[47] Submission from Defence for Children International.

[48] Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016), para. 43 (g).

[49] See A/HRC/26/39, para. 105; A/HRC/33/29, paras. 23, 27, 30, 35 and 64.

[50] OHCHR, "Attacks against girls seeking access to education", p. 3.

[51] See A/HRC/26/39, para. 105; OHCHR, "Attacks against girls seeking access to education", para. 27.

[52] Committee on the Elimination of Discrimination against Women, general recommendation No. 19 (1992) on violence against women, paras. 9 and 24 (a).

and gender-sensitive remedy.[51] Measures should be designed and monitored with the participation of girls and boys and could include the adoption of safeguards and specific policies, and accessible and safe monitoring and reporting mechanisms.[52] The development of a holistic understanding of the root causes and consequences of school-related gender-based violence against girls, including through systematic research and improved data collection, is also critically needed.[53]

K. Harmful practices

44. Harmful practices are "persistent practices and forms of behaviour that are grounded in discrimination on the basis of, among other things, sex, gender and age, in addition to multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering".[54] Their occurrence is often justified on religious or sociocultural grounds; as a form of payment, "protection" or financial security; and as a rite of passage to adulthood.[55] Disproportionately affecting girls, in particular in rural contexts, such practices particularly impact girls' access to education. Child marriage has contributed to girls being forcibly excluded from school and to higher school dropout rates, as they are expected to assume their responsibilities as wives and as child bearers.[56]

45. Efforts should be made to counter cultural and social acceptance of such practices, by raising awareness of their harmful effects on girls and the costs to the wider society, including through outreach and support programmes, the media and awareness-raising campaigns, conducted in collaboration with older women and girls, religious and community leaders, civil society, and men and boys.[57] Economic incentives to girls who delay marriage until they complete their education have also proven to be successful in combating child marriage.[58]

46. Under international human rights law, States should take all effective and appropriate measures to abolish traditional practices prejudicial to the health of children, and modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women,[59] including ensuring that girls are made aware of, and have the capacity to claim and exercise, their rights in relation to marriage, as well as ensuring that girls who run away from their families to avoid harmful practices are protected.[60] Teachers can also play a critical role in assisting victims or potential victims of harmful practices.[61]

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[51] Ibid.

[52] GHC10R, "Attacks against girls seeking access to education", p. 26.

[53] Ibid., p. 27; A/HRC/17/26, para. 103; Submissions from UNICEF and National Youth Council of Ireland.

[54] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014), paras. 15-16.

[55] Ibid., paras. 6 and 62; Committee on the Rights of the Child, general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, para. 9; Submission from World Young Women's Christian Association.

[56] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014), para. 22.

[57] A/HRC/26/22, para. 54 (e).

[58] Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016), para. 23.

[59] Ibid., para. 32; Convention on the Rights of the Child, art. 24 (3); Convention on the Elimination of All Forms of Discrimination against Women, arts. 2 (f), 16 (1) (a)-(b).

[60] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014), paras. 23 and 54.

[61] Ibid., para. 68.

I. Conflict and situations of instability

87. Conflict and situations of instability, including the impacts of natural disasters and widespread criminal violence, are accompanied by the collapse of a State's public and services provision infrastructure, and its political, economic and social structures. Such situations frequently lead to an exacerbation of pre-existing patterns of discrimination, deepen gender inequalities and expose girls in particular to heightened risks of abuse, exploitation and violations of their rights, including their right to education.

88. Girls' education is compromised when schools are targeted, looted and/or destroyed, closed owing to insecurity or occupied for military purposes or as shelters.[64] Grave rights violations following the "normalization of gender-based violence" deter and prevent girls from attending school and may include targeted attacks, forced exclusion, forcible recruitment, abduction, sexual slavery, harassment and threats against girls by armed groups and criminal gangs.[65] In such insecure contexts, girls are particularly prone to harmful practices and being kept at home to assume domestic responsibilities or to partake in exploitative forms of income generation. Defence for Children International noted that, in many contexts, day-to-day survival prevailed over investment in the long-term future of girls.

89. Some global initiatives have sought to address those challenges and protect the right to education in situations of instability. Education Above All foundation promotes innovative approaches, including addressing data challenges concerning attacks on education.[66]

90. International human rights, including the right to education, continue to apply in the context of armed conflict and occupation, in addition to rights guaranteed under international humanitarian law, refugee law and international criminal law.[67] The Security Council has adopted a number of resolutions on children and armed conflict and on women, peace and security, which include calls on parties to conflicts to refrain from actions that impede children's access to education and to prevent the military use of schools.[68]

91. States should prioritize the protection of schools from attacks and ensure that girls are protected against violence on their way to/from and in school. States should provide girls with appropriate remedies when their rights are violated so as to enable them to have equal access to education as boys,[69] including repairing damaged educational institutions and facilitating access to girls; outreach, repatriation and remedial programmes, including specialized education services for victims of gender-based violence and reintegration programmes for girls who have not been attending school;[70] and increased funding and resource allocation for girls' education at all levels and in every situation.

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[64] See for example, A/HRC/27/60, para. 87.

[65] Ibid., para. 42; OHCHR, "Attacks against girls seeking access to education", p. 11; Office of the Special Representative of the Secretary-General for Children and Armed Conflict, *Protect schools and hospitals. End attacks on education and healthcare*, Guidance Note on Security Council resolution 1998 (New York, 2014), p. 4.

[66] Education Above All Foundation (http://educationaboveall.org/).

[67] See, inter alia, Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention), arts. 24, 50 and 94; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), arts. 48, 52 and 78; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 4 (3).

[68] For example, Security Council resolutions 1325 (2000), 1998 (2011) and 2143 (2014).

[69] Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016), para. 43 (e).

[70] OHCHR, "Attacks against girls seeking access to education", pp. 13-14.

IV. Girls at particular risk of being left behind

52. Even where educational opportunities are available, girls may experience multiple and intersecting forms of discrimination that restrict their enjoyment of the right to education, particularly in the transition from primary to secondary school. Gender-based obstacles may combine with, inter alia, identity, ethnicity, beliefs, health status, location, migration status or their particular situation at the given time, including, but not limited to, girls living in poverty, on the street, in rural and remote areas; with disabilities; belonging to national, ethnic, religious or linguistic minorities, a particular caste, of African descent; stateless, migrants, in particular those in an irregular situation and in immigration detention, displaced and/or fleeing conflict-affected or fragile environments; orphans and/or deprived of a family environment; living with HIV/AIDS; and lesbian, bisexual, transgender and intersex girls.[71]

53. Children, in particular girls, with psychosocial, intellectual, sensory or physical impairments are commonly segregated and face significant challenges in accessing quality, inclusive education.[72] Girls with disabilities are often confronted with a variety of discriminatory and/or lack of enabling laws, policies and practices that restrict their right to education:[73] they may be denied enrolment in public and private institutions ; parents/guardians or care facilities may refuse to allow them to attend school; they may not be given priority to obtain assistive devices and rehabilitative services to access education; and transportation and education infrastructure, including lack of accessibility to separate sanitation facilities or safe and adapted facilities to manage menstrual hygiene may be inadequate.[74]

54. Many States had taken a number of measures to reach girls most at risk of being left behind. The Bourses Maman programme in Mali provided women with grants for income-generating activities in return for ensuring that girls attended school and encouraged the recruitment of female teachers in rural schools. Schools in Finland were required to prepare annual plans on non-discrimination and gender equality, which also addressed discrimination faced by girls belonging to minorities. Nicaragua had adapted school curricula and materials to the specific situation of each region and language, in collaboration with girls in vulnerable situations. Plan International had worked in Sierra Leone supporting marginalized girls and children with disabilities to help them to stay in school, including through after-school study groups, payment of school fees, provision of textbooks, school uniforms and learning materials, as well as teacher training on gender- and disability-sensitive education.[75]

55. States should address the multiple and intersecting forms of discrimination that girls may face and provide quality, inclusive education that is accessible to all girls, with particular attention to those in the most vulnerable and marginalized situations.[76] States must ensure birth registration so that every girl is counted and has access to education. States should also ensure that all girls have the opportunity to access early childhood education to facilitate their smooth transition to primary education.[77] States should further adopt temporary special measures aimed at realizing de facto equality for girls and boys

[71] Committee on the Rights of the Child, general comment No. 20 (2016), paras. 33-34, 48 and 70; A/HRC/29/23, paras. 55-57; UNESCO, *Out in the Open: Education sector responses to violence based on sexual orientation and gender identity/expression* (2016).

[72] A/HRC/25/29, paras. 35-40 and 56.

[73] Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, para. 56.

[74] Committee on the Rights of Persons with Disabilities, general comment No. 4 (2016) on the right to inclusive education, para. 38.

[75] Plan International, "Girls' Education Policy Briefing" (2016), p. 5.

[76] Convention on the Rights of Persons with Disabilities, arts. 6 and 24; Committee on the Rights of the Child, general comment No. 20 (2016), para. 70.

[77] Convention on the Rights of the Child, art. 7; Committee on the Rights of the Child, general comment No. 7 (2005) on implementing child rights in early childhood, paras. 25, 28 and 30.

together with measures for disadvantaged groups, and ensure that they do not lead to the maintenance of unequal or separate standards.[78]

V. 2030 Agenda for Sustainable Development

56. The Millennium Development Goals helped to mobilize political will and investment to improve girls' access to education. From 2000 to 2015, the gender gap in literacy narrowed sharply and there was a significant increase in primary school attendance worldwide, accompanied by greater parity between girls and boys.[79] Nonetheless, despite the increase of the number of girls finishing primary education, the gender gap in lower secondary education remained wide and prevalent in nearly 60 per cent of countries, with girls living in poverty and/or in rural areas most adversely affected.[80]

57. The tendency to focus on global and national averages lessens attention to uneven progress in education between and within countries. The failure to track the situation of girls in the most vulnerable or marginalized situations, making their reality invisible, and overall lack of data disaggregation were significant shortcomings of the Goals, in combination with a weak accountability framework.[81]

58. The 2030 Agenda for Sustainable Development marks a historic opportunity to build on the achievements of the Millennium Development Goals, draw lessons from their limitations and effectuate genuine transformation towards the full realization of human rights. With a paradigm shift from charity and needs to empowerment and rights, the 2030 Agenda should accelerate the full realization of every girl's right to education worldwide.

59. The 2030 Goals are universal and integrated, with a pledge to leave no one behind that is central to the realization of every girl's right to education, as it includes the elimination of all forms of discrimination and the reduction of inequalities faced by girls everywhere.[82] The global education community reaffirmed the importance of gender in education in the Incheon Declaration and Framework for Action.[83] In addition to the principles of universality, equality and non-discrimination, the implementation of the Goals should be guided by the principles of indivisibility of the rights of the child; the best interests of the child; the survival and development of the child; and respect for the views of the child.[84]

60. Although the Sustainable Development Goals and their targets are indivisible and mutually reinforcing, Goals 4 and 5 on quality education and gender equality, respectively, are particularly relevant and inextricably linked in the context of girls' enjoyment of the right to education. In implementing Goal 4, which addresses inequities and quality of education, States should go beyond eliminating gender disparities and strive to ensure gender equality in education, in line with the commitments made under Goal 5 and in the Incheon Declaration and Framework for Action. The targets under other goals are also closely connected to ensuring girls' equal right to education, including those related to poverty, health, water and sanitation, reduction of inequalities, ending violence against children and promoting peaceful and inclusive societies.

61. Whereas the monitoring of the targets of the Millennium Development Goals, including on education, focused on aggregate progress, the Sustainable Development Goals are universally applicable and call for the collection of reliable disaggregated data, not only by gender, but also by other grounds of discrimination. This will help to identify girls

[78] Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999), para. 32.
[79] United Nations Statistics Division and UN-Women, "Millennium Development Goals Gender Chart 2015".
[80] UNESCO, *Global Education Monitoring Report 2016*, pp. 17-19.
[81] See A/HRC/34/27, para. 15.
[82] Ibid., para. 66. See also
[83] UNESCO and others, *Education 2030: Incheon Declaration and Framework for Action — Towards inclusive and equitable quality education and lifelong learning for all* (2015).
[84] Convention on the Rights of the Child, arts. 2, 3, 6 and 12.

suffering from multiple and intersecting forms of discrimination and inequality in relation to education.[95] However, disaggregation of data alone is not sufficient. Data collection should be conducted in a manner that fully takes into account key human rights principles, including participation, self-identification, transparency, privacy and accountability for rights.

62. Indicators are critical for ensuring accountability under the Sustainable Development Goals, as well as for monitoring and assessing the efforts of States to realize every girl's equal enjoyment of the right to education. At the same time, accountability should not be narrowly defined as being only about indicators. The selection of limited indicators may lead to undesirable incentives, which may eventually undermine States' obligations. For example, the Millennium Development Goals paid less attention to the quality of primary education and actual attendance and completion by narrowing its focus to gender parity in enrolment. This also led to less attention being paid to other levels of education, including secondary education, as well as gender equality and girls' right to education more broadly.[96]

63. With the foregoing in mind, additional complementary indicators could be developed at the national and subnational levels and other relevant data sources could be explored, including events-based data relating to observable human rights violations; standards-based data; socioeconomic and administrative data; and data based on surveys, opinions and experiences. In addition, efforts could be strengthened to empower rights holders, including students, school clubs, teachers and parent-teacher associations, to undertake their own monitoring of the targets by means of information and communications technology, such as SMS, crowdsourcing or the use of score cards. In that way, they could share information on what is being learned and how it is taught.

64. The assessment of the full enjoyment of human rights, including girls' right to education, cannot be reduced to quantitative data points, but should also involve qualitative assessment. Achieving the Sustainable Development Goals in line with human rights standards is more than how we monitor and measure targets. It also requires a deliberative process to understand the complex power structures that entrench discrimination and inequality, followed by efforts to dismantle those systems and build more just and equal societies.[97]

65. Existing human rights monitoring and documentation methodologies that include qualitative indicators and context-specific analysis will therefore be critical sources of information to complement the monitoring of the Goals to enable a fuller understanding of whether States are meeting their human rights obligations, including in relation to girls' right to education. In that regard, it is crucial that analysis of the implementation progress of the Goals, including in relation to the equal enjoyment of the right to education by every girl, is considered together and consistent with, as well as underpinned by, more comprehensive and analytical human rights monitoring and reporting.

VI. Conclusion and recommendations

66. **Based on the present report, it is recommended that Member States and other stakeholders, as relevant:**

(a) **Eliminate multiple and intersecting forms of discrimination, including repealing laws, policies, regulations and practices that directly and/or indirectly block girls from accessing quality education;**

[95] Human Rights Committee, general comment No. 28 (2000) on the equality of rights between men and women, para. 28; Committee on the Elimination of Discrimination against Women, general recommendation No. 28 (2010), para. 38 (f).

[96] Elaine Unterhalter, "Education targets, indicators and a post-2015 development agenda: Education for All, the MDGs, and human development", Working Paper Series (Harvard University, 2013), pp. 5 and 20-21.

[97] See A/HRC/33/24, paras. 47-48.

(b) **Adopt and periodically review, monitor and evaluate constitutional guarantees, legislative frameworks, policies and programmes to counter discrimination and ensure the enjoyment of the right to quality education by every girl, as well as respect the best interests of the child and her right to be heard;**

(c) **Ensure adequate financial resources and direct and transparent gender-sensitive budgeting for legislation, policies and programmes on girls' education at all levels and in all situations, including through international cooperation that is coordinated, sustainable and monitored and effectively targeted to those girls most at risk of being left behind;**

(d) **Ensure that the right to education is justiciable and that every girl is aware of her rights and has access to child-friendly, gender-sensitive and safe judicial and non-judicial remedies, and strengthen the monitoring by national human rights institutions of girls' equal enjoyment of the right to education;**

(e) **Take proactive, holistic and appropriate measures, including awareness-raising and dissemination of information, to promote girls' education and dismantle harmful gender stereotypes in public and private life, including in education, in cooperation with girls and boys, civil society, community and religious leaders, and the media;**

(f) **Periodically review and revise school curricula, textbooks, programmes and teaching methods to ensure the elimination of harmful gender stereotypes, inclusion of gender equality and human rights education, and ensure that comprehensive education on sexuality and reproduction is part of the mandatory school curriculum;**

(g) **Ensure that girls enjoy the same quality education as boys, including the same range of courses and activities, including sports, even where schools are segregated by gender;**

(h) **Ensure that teachers are qualified and adequately trained, including on human rights and gender equality, and that girls are encouraged to freely choose non-traditional fields of study, including through academic counselling;**

(i) **Guarantee the enjoyment by every girl of a non-discriminatory, inclusive and quality educational environment that is gender-sensitive, transformative and responsive to their views and needs, including accessible education facilities with safe drinking water; separate, sheltered latrines for girls; and resources for menstrual hygiene, with attention to girls with disabilities;**

(j) **Ensure the same admission criteria for girls and boys at all levels of education, in public and private educational institutions, eliminate direct and indirect costs to quality education and protect girls, in particular those most disadvantaged, against exclusion and interference by State actors and private entities;**

(k) **Ensure that education is safe and physically accessible by every girl, including girls living in rural and remote areas and, in that context, provide safe, affordable, gender-sensitive and accessible means of transportation to and from school;**

(l) **Take proactive measures to ensure that pregnant girls continue to attend and complete school, including through the availability of childcare facilities, breastfeeding rooms and counselling on the school premises, and encourage young mothers and girls who have dropped out to reintegrate and re-engage in the educational system;**

(m) **Take adequate measures to eliminate all forms of violence against girls, including school-related gender-based violence and harmful practices, and effectively prevent, investigate, prosecute and punish the perpetrators of gender-based violence, including by teachers;**

(n) **Protect girls and educational institutions from attacks on girls' education, including in the context of violent extremism, and prevent the use of**

schools for military or shelter purposes, as well as ensure the adequate and gender-sensitive allocation of funds to girls' education in emergency situations;

(o) Adopt temporary special measures aimed at realizing de facto equality between girls and boys in tandem with measures for girls most at risk of being left behind;

(p) Address the challenges that migrant girls face in enjoying their right to education, including through the adoption of innovative approaches and curricula and the development of procedures, mechanisms and partnerships, so as to ensure access to effective and quality education, on the basis of equality of treatment with nationals of the country and boys;

(q) Affirm the centrality of human rights in the 2030 Agenda for Sustainable Development, emphasize the inextricable connection between Goals 4 and 5 on quality education and gender equality, respectively, and the interdependence and mutually reinforcing nature of all the Sustainable Development Goals and their targets more generally, and reinforce linkages between international and regional processes, including the Incheon Declaration and Framework for Action;

(r) Ensure a human rights-based approach to the collection, production, analysis and dissemination of data on gender equality in education in all contexts and adopt human rights-sensitive indicators to monitor progress at the national level, including in the context of the implementation of the Sustainable Development Goals, complemented by human rights reporting and analysis.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Intersessional seminar on the protection of the family and disability*

Report of the United Nations High Commissioner for Human Rights

Summary

The present report, mandated by the Human Rights Council in its resolution 32/23, summarizes the presentations and debates held during the one-day intersessional seminar on the impact of the implementation by States of their obligations under relevant provisions of international human rights law with regard to the protection of the family in its role in supporting the protection and promotion of the rights of persons with disabilities, at which challenges and best practices in this regard were examined.

In the report, the High Commissioner reflects the contributions made by panellists, States and civil society organizations during the seminar, which was held on 23 February 2017, and the conclusions and recommendations identified during the debate.

* The report was submitted after the deadline in order to reflect the most recent developments.

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I. Introduction

1. In its resolution 32/23, adopted on 1 July 2016, the Human Rights Council decided to convene, with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), and before its thirty-fourth session, a one-day intersessional seminar on the impact of the implementation by States of their obligations under relevant provisions of international human rights law with regard to the protection of the family in its role in supporting the protection and promotion of the rights of persons with disabilities, and to discuss challenges and best practices in this regard.

2. The intersessional seminar was held in Geneva on 23 February 2017. It was divided into three sessions: two held in the morning and one held in the afternoon. The programme of work was prepared by the leading co-sponsors of the seminar — the Permanent Missions of Egypt, Qatar and the Russian Federation — with the support of OHCHR and inputs from relevant stakeholders. The present report contains a summary of the proceedings and the conclusions and recommendations that emerged from the seminar. The agenda for the seminar and the list of panellists are published on the OHCHR website.[1] The seminar was made accessible, with closed captioning and international sign interpretation, and was webcast on UN Web TV.[2]

II. Summary of the proceedings

A. International framework on family and disability

3. The President of the Human Rights Council, Joaquín Alexander Maza Martelli, chaired the first session. This session was focused on the international framework on family and disability and was moderated by Maha Kamaleldin Elsayed Helali, a board member of the National Council for Disability Affairs, of Egypt, and President of Inclusion International for the Middle East and North Africa region. The panellists were Catherinne Ivonne Pedreros, of the secretariat of the Committee on the Rights of Persons with Disabilities; Mark Mapemba, a self-advocate from Malawi, board member of Inclusion Africa and council member of Inclusion International; and Ms. Helali. There were interventions from the floor by representatives of New Zealand, Chile, China, Ecuador, Belarus, Colombia, the European Union, Uruguay, the Russian Federation, Azerbaijan, Alliance Defending Freedom and Child Rights Connect.

4. Ms. Pedreros started by acknowledging that the almost universal ratification of the Convention on the Rights of Persons with Disabilities reflected a firm international agreement. However, progress still had to be made on the inclusion of persons with disabilities and their families — given that the majority of them lived in poverty — which included the need to combat discrimination on the basis of disability. Ms. Pedreros's presentation was aimed at answering three questions based on the jurisprudence of the Committee on the Rights of Persons with Disabilities, which may help States parties to better provide assistance to persons with disabilities and their families, in a manner consistent with the Convention.

5. The first question was how the human rights-based approach to disability in the Convention related to families. On that matter, she stated that the human rights-based approach to disability recognized that families could have a role in contributing to the

[1] See www.ohchr.org/EN/Issues/Disability/Pages/IntersessionalSeminarProtectionFamilyDisability.aspx (agenda).

[2] The webcast of panel I is available from http://webtv.un.org/watch/panel-i-intersessional-seminar-on-protection-of-family-and-disability-human-rights-council-/5333037517001. For panel II, go to http://webtv.un.org/watch/panel-ii-intersessional-seminar-on-protection-of-family-and-disability-human-rights-council-/5333037519001, and for panel III, go to http://webtv.un.org/watch/panel-iii-intersessional-seminar-on-protection-of-family-and-disability-human-rights-council/5334700944001.

realization of the rights of persons with disabilities. According to Ms. Pedreros, the role of families should be properly framed under the principles of the Convention, as well as under the paradigm shift that the concept of disability brought about. She stated that recognition of gender equality and the rights of women and girls with disabilities, including of their sexual and reproductive rights and health, and protection against violence, including in family settings, also constituted part of the main framework of such a role. She added that support for families should be aimed at facilitating the exercise of the rights of persons with disabilities, as enshrined in the Convention. Her second question was on how the Convention recognized the roles of families. She mentioned three pillars: article 5 (equality and non-discrimination), article 12 (equal recognition before the law), and the interrelation between articles 19 (living independently and being included in the community) and 28 (adequate standard of living and social protection).

6. She explained the concept of "discrimination by association" against family members without impairments, particularly women, and de facto guardianship within families that deprived persons with disabilities of their ability to make choices. She also highlighted the Committee's concern about substituted decision-making and about forced sterilization of women and girls with disabilities. She underscored the Committee's recommendations on guaranteeing respect for the autonomy and self-determination of persons with disabilities in day-to-day decisions, and on ensuring access to services they required and the living arrangements they needed, including choosing their place of residence, which was an important part of moving towards deinstitutionalization. She recalled the Committee's views regarding the negative impact of the absence of an adequate standard of living and appropriate social protection for persons with disabilities, which perpetuated situations of poverty and exclusion from the community. Finally, she indicated that the Committee had called upon States parties to make sure that persons with disabilities and their families were not disproportionately affected by budget cuts and to ensure income support and social security, taking into account the framework of the Sustainable Development Goals.

7. The final question raised by Ms. Pedreros regarded which articles of the Convention on the Rights of Persons with Disabilities specifically protected the rights of persons with disabilities in relation to the family. She mentioned the following: (a) respect for home and the family (art. 23); (b) health (art. 25); and (c) inclusive education in the regular education system (art. 24). Ms. Pedreros identified violations of these rights, as highlighted by the Committee. These included being denied the right to marry, start a family and adopt or raise children; the absence of appropriate support to raise children and exercise parental rights; and separation of children from their parents based on impairment of either the child or one or both of the parents, which disproportionately affected women and girls with disabilities. She referred to the Committee's general comment No. 4 (2016) on the right to inclusive education, in which it was indicated that persons with disabilities and, where appropriate, their families, must be recognized as partners in, and not merely recipients of, education.

8. Ms. Pedreros concluded by noting that the Convention provided for the protection and realization of the rights of persons with disabilities and their families and that the jurisprudence of the Committee may guide States to better understand and ensure protection and assistance for persons with disabilities and their families in a manner consistent with the Convention. She recommended that States enhance their efforts on awareness-raising and ensure that their public campaigns and strategies on the rights and dignity of persons with disabilities include families. States should also take measures to combat stigma, stereotypes, prejudices and harmful practices that prevail in society, including within the family. Finally, she recalled the general obligations of States parties to the Convention, which included taking legislative, public policy and administrative measures.

9. Mr. Mapemba pointed out that family-based organizations such as the Parents of Disabled Children Association of Malawi could help families to understand disability differently, reduce stigma or shame that parents may feel and help them to embrace their children's human rights. He added that the organization had helped his mother to understand his educational needs and how to support him to be included, and had helped him to value self-advocacy. He defined self-advocacy as "expressing oneself and being heard" and "being a leader who fights for others, and working together on one's rights".

and said that the importance of self-advocacy resided in the fact that it "makes us equal, builds confidence, gives us visibility and raises awareness of others".

10. Mr. Mapemba said that he had been a disability rights advocate since the age of 14 and had gained national, regional and international experience in promoting the rights of youth with disabilities. In that respect, he described his family as being very important in supporting him to live a full and independent life and in fighting to protect and promote his rights. However, he warned that families could sometimes be overprotective or controlling. That was usually on account of restrictive laws and customs, and the fear of what would happen to their children when the parents were gone.

11. Mr. Mapemba asserted that persons with intellectual disabilities were often discriminated against and undervalued by society and thus exercised little to no control over their lives (for example, they stayed with their parents when they were adults because they had no other choice). "People do not see us — we are invisible", he said. "People do not hear us — we have no voice." He concluded by calling for investing in progressive family-based organizations and in self-advocacy as a key way for governments to meet their obligations to support families.

12. Ms. Helali stated that Egypt attached great importance to safeguarding and supporting the family unit. She underlined the positive role that the family played in the fight against poverty and in combating violence against women, as well as in promoting human rights, development, children's and older persons' rights and the right of girls to education.

13. In that regard, Ms. Helali highlighted the following advances in Egypt: the implementation of benefits included in the Social Security Act and financial assistance for persons with disabilities; the submission of a draft bill on the rights of persons with disabilities, covering employment quotas, political rights, and prosecution for forced sterilization and forced abortion; and the combining of different pension schemes within the same family. The speaker confirmed that it was important to hear the voices of family members, as families often provided support for children and young people, but also for adults with disabilities, particularly in Arab societies where children usually lived with their families until they married. She concluded by highlighting the need for: information and education; the provision of specific services; financial support; leisure and recreation; and support in the formation of associations and groups.

14. Following the presentations, the representative of New Zealand highlighted the need to ensure elimination of discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, and to ensure elimination of the disproportionate effect of discrimination on women and girls with disabilities impacting on their freedom and choices to pursue their own life plans. The representative of Chile affirmed the recognition of various forms of families; the right to personal autonomy, independence and inclusion of persons with disabilities as individual rights holders, including the right to establish their own family in any form they wished; the recognition and exercise of legal capacity, including by persons with intellectual disability; legal advances on the rights to tailored social protection; and measures against the institutionalization of persons with psychosocial disabilities. The delegate of China mentioned the goal of a harmonious society between the old and the young, as well as several legal and policy measures on social protection, education and health.

15. The representative of Ecuador underscored the importance of ratification and implementation of the Convention and its Optional Protocol, as well as the Sustainable Development Goals, and the employment quota as an example of affirmative action. The representative of Belarus pointed to national legislative measures such as tax benefits and increased social protection benefits for children with disabilities, in the framework of a national plan and a gender equality policy. The representative of Colombia addressed the topics of family members from different ethnic groups and victims of armed conflicts, the transition from the patriarchal system to a democratic configuration inside the family, and the role of families in promoting the individual rights of persons with disabilities and as agents of social and sustainable development. The representative also mentioned the new roles of men for the promotion of gender equality and ways to prevent domestic violence

and other harmful practices within families. The representative of the European Union underlined that various forms of families existed, and affirmed the need to support families in their role of strengthening societies and upholding the rights of each individual within families without discrimination of any kind.

16. The representative of Uruguay referred to ways to prevent the exploitation and abuse of children, and the prohibition on separating them from their biological mothers because of impairment of the child, the mother or both. Furthermore, the delegate emphasized the importance of the right to sexuality, the right to accessible and affordable sexual and reproductive health and the right of women with disabilities to maintain their fertility. The representative of the Russian Federation posed questions on supporting the family and on the role of the family in giving support to persons with disabilities, as well as on support from the State for the work of organizations of persons with disabilities. The delegate of Azerbaijan described a policy for strengthening the social protection of persons with disabilities to achieve relevant aspects of the Sustainable Development Goals. The representative of Alliance Defending Freedom considered that families were promoters of collective and intergenerational solidarity and described domestic abuse as a human rights violation. Finally, the representative of Child Rights Connect stated that children, including children with disabilities, were rights holders, and that they could not be discriminated against, including on the basis of family status.

17. In response to these interventions, Ms. Helali said that as the family played a major role in supporting persons with disabilities, it was very important to support the family itself. Ms. Pedreros underscored the importance of recognizing persons with disabilities as the main rights holders under the Convention. Ms. Pedreros also underlined the importance of freedom of choice and empowerment of persons with disabilities, when drafting public policies in line with the Convention (see, for example, arts. 12, 19 and 28). In regard to combating specific forms of discrimination, she recommended focusing on stereotypes and prejudices that were still deeply rooted in society, through specific training and awareness-raising campaigns and by ensuring the participation of organizations of persons with disabilities. She acknowledged the connection between the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. She recalled concluding observations from the Committee on the Rights of the Child on the deinstitutionalization of children with disabilities and the promotion of foster families. She also referred to general comment No. 4 (2016) on the right to inclusive education, of the Committee on the Rights of Persons with Disabilities, and to the role of the family in supporting persons with disabilities as rights holders. Finally, Mr. Mapemba recommended working with organizations of persons with disabilities, promoting inclusive education, sharing information and promoting awareness-raising for families.

B. Roles of families as caregivers and supporters of persons with disabilities for their enjoyment of human rights

18. The second morning session was also chaired by the President of the Human Rights Council and focused on the roles of families as caregivers and supporters of persons with disabilities for their enjoyment of human rights. This session was moderated by Edwin Romel Béjar Rojas, a family judge of the Superior Court of Cusco, Peru. The panellists were Sue Swenson, President-elect of Inclusion International; Catalina Devandas Aguilar, Special Rapporteur on the rights of persons with disabilities; and Sovann Phon, a self-advocate, of Komar Pikar Foundation. There were interventions from the floor by representatives of the Netherlands, Sweden, El Salvador and Mexico, and Human Rights Watch.

19. Ms. Swenson's speech revolved around creating a picture of the reality of family support for persons with disabilities, including its different stages and on the basis of her experience as the mother of her late son Charlie. She described the fact that he had lived with his parents until he was 26 years old and that he was enrolled in a regular school after she learned what the best practice would be for him. She pointed out that families consisted not only of a person with an impairment and a mother or a caregiver, but also of a broad

range of people participating in the family, including siblings and fathers. She described her frequent fight with systems, with programmes and with members of her community for the recognition and inclusion of her son. She addressed key policy issues, in order to support families of persons with disabilities.

20. She stated that in many cases, families of persons with intellectual disabilities ended up sheltering them for all of their adult lives because societies were not designed to make it safe or affordable for them to live independently; this was also the case in developed countries. This led to a profound dependency on the family, and such a paradigm pushed against respect of the rights and desires of the person with disability. She noted that in some cases, individuals may feel controlled by their families, which was also a consequence of the lack of support for them and their families. She described the participation by her son Charlie and herself in negotiating the Convention on the Rights of Persons with Disabilities with respect to legal capacity and inclusive education. She stated that rather than a guardian, her son had had a team of supports. She pointed out that training on education and inclusion should be provided for families, too.

21. She noted that impairments could occur in all contexts, regardless of a person's wealth, ethnicity or sexual orientation. Finally, she suggested that the Committee on the Rights of Persons with Disabilities could draft a general comment on the role of the family, and that the United Nations and Member States could share data and knowledge about relevant public policies in plain language, as well as supporting training efforts by progressive family-based organizations, investing in employment (also for parents) and in inclusive education, and promoting public policies with benchmarks on sexual and reproductive rights and on the prevention of violence and forced sterilization.

22. Ms. Devandas prepared a video message in which she addressed the right of children and adults with disabilities to support services and assistance within the framework of international human rights law — the theme of her latest report which was going to be presented at the upcoming thirty-fifth session of the Human Rights Council. She stated that while States had established some forms of assistance and had provided public funding for their implementation, provision of the support required by persons with disabilities remained delegated almost exclusively to the family. She stressed that both developed and developing countries were struggling to guarantee the availability of sufficient and adequate services and that women and girls were disproportionately assuming support duties. Similarly, family members providing support faced a reduction in their social relationships, income levels and general well-being, and States generally did not consider them as qualifying to be recipients of benefits or social services.

23. She indicated that the Convention departed from the traditional understanding of families as being caregivers and of persons with disabilities as being dependent members who needed to be "cared for". Instead, as individual rights holders, persons with disabilities should have the freedom and opportunities to choose who gave them support and what kind of service they wanted to receive, in order to have full choice and control over their own lives. She recommended that policies should avoid reducing the autonomy of persons with disabilities, compromising their safety and making them vulnerable to coercion and abuse, and isolating them from society.

24. In conclusion, she mentioned the importance of consulting persons with disabilities on all decision-making processes related to the design and provision of support. She also said that States needed to rethink their policies relating to the role of families as unpaid care givers and to secure availability of a sufficient number and sufficient types of support. Finally, States should adopt a community-based approach to the provision of support.

25. Mr. Plem spoke about his early life and about how, after joining an organization in 2011, he had started being supported in his communication and interaction with others and in acquiring new vocabulary and performing everyday activities. He said that the support he received was based on education and explanation. Finally, he also mentioned the discrimination that the members of his family suffered, and how his mother was concerned about what would happen to him after she passed away.

26. Next, the representative of the Netherlands identified advances in the implementation and establishment of monitoring mechanisms, pursuant to article 33 of the

Convention, as well as in enforcement of the rights of persons with disabilities, promoting their autonomy as a way to reduce the care duties of relatives. The representative also addressed sexual and reproductive health and rights as stated in the Convention, the need to recognize the existence of and guarantee support for diverse types of parenthood and all forms of families as a non-discrimination measure, and the role of the private sector in the implementation of rights (e.g. employment). The representative of Sweden underscored the role that family played in protecting the rights of persons with disabilities, and identified children, women and indeed all persons with disabilities as individual rights holders, regardless of whether they lived in family environments or not. That representative also mentioned the rights of children and adults with disabilities to be heard, to participate, not to be discriminated against on the basis of family status, and to be protected from all forms of violence and abuse in all settings, including the family. The representative of El Salvador emphasized the importance of helping families to cover the needs of individuals, and also highlighted legal developments on the road towards equal opportunity for people with disabilities. The representative of Mexico underscored the need for support systems and measures to be designed in a way that was both individualized and participatory, and the need for protection of the rights of all children, both those with and those without impairments.

27. Finally, the representative of Human Rights Watch stated that families were important sites for the transmission of values, and that the role of policies was to encourage those values to be consistent with the international principles of equality, dignity and respect. In addition, efforts to protect and assist families were highlighted, as a way of supporting and strengthening not a particular family structure, but rather the functioning of all families in their educating and nurturing roles.

C. Challenges faced by parents and other family members

28. Amr Ahmed Ramadan, Vice-President of the Human Rights Council, chaired the afternoon session that focused on the challenges faced by parents and other family members in supporting persons with disabilities. Sheikha Hissa Khalifa bin Ahmed Al Thani, of Qatar, former Special Rapporteur on disability of the Commission for Social Development, gave opening remarks. This session was moderated by Ms. Swenson. The panellists were Fauzia Haji, Secretary-General of Inclusion International, and Mr. Béjar Rojas. There were interventions from the floor by representatives of Estonia, the United Nations Population Fund, Argentina, Egypt, the Gulf Cooperation Council, Pakistan, the Bahamas, Saudi Arabia, Brazil, International Disability Alliance, Global Helping to Advance Women and Children, Save the Children, Fiji, Colombia, Qatar, Portugal, the Russian Federation, Iraq, Plan International, Associazione Comunità Papa Giovanni XXIII and Inclusion International.

29. Sheikha Hissa Khalifa bin Ahmed Al Thani emphasized in a video message that, during her mandate from 2003 to 2009, her main areas of focus had been supporting families with members with disabilities, particularly children, the relationship between disability and poverty, and the increase in the occurrence of impairments caused by wars and armed conflict. In that capacity, she had led awareness-raising campaigns on ratification of the Convention on the Rights of Persons with Disabilities, and other campaigns directed at legislators in the Arab countries.

30. She explained that, in her current capacity as Humanitarian Affairs Envoy of the League of Arab States, she had been visiting families in refugee camps, stressing the importance of equalizing opportunities for persons with disabilities and safeguarding their rights. She said that families, societies and governments faced obstacles in emergency and refuge situations with regard to upholding the rights of persons with disabilities. She noted that persons with physical impairments usually received medical attention and assistive devices, thanks to the Red Cross and Red Crescent, and in cooperation with organizations of persons with disabilities. However, persons with intellectual disabilities did not always receive essential services and development opportunities. She also pointed out the prevalence of psychosocial impairments (including depression), which were caused by the traumas of war, violence and displacement and which largely remained invisible.

31. She described the impact of humanitarian crises on families of persons with disabilities, which endured negative social attitudes that resulted in discrimination and isolation. Huge populations from Africa, Asia and the Middle East were seeking refuge in the developed world, fleeing from countries with shattered economies or devastation from war. In that context, she underlined the necessity of improving gender equality in education and providing recreational opportunities for refugees, and of supporting host countries in providing better family services. She also pointed to the need for continuity and improvement in the provision of services to persons with disabilities and their families by humanitarian organizations, including mental health services. She concluded by calling for support for an adequate standard of living; awareness-raising campaigns on the potential and contributions of persons with disabilities; and ensuring that children, adults and older persons with disabilities were protected from abuse and exploitation occurring within and outside the family.

32. Ms. Haji indicated that persons with disabilities faced several barriers daily, from physical obstacles in buildings to systemic barriers in education, health, access to justice, employment and general inclusion in their communities. Environmental barriers often limited them or prevented them from participating fully in social, occupational and recreational activities. Parents of persons with disabilities also had barriers to confront, particularly parents of children and young people with intellectual impairments and parents of those with multiple impairments.

33. Ms. Haji added that the most difficult barriers to overcome were other people's attitudes regarding persons with disabilities. Attitudinal barriers could prevent a person from becoming a productive, successful and active member of society. In addition, they created the false notion that persons with disabilities could not accomplish goals in day-to-day life, therefore that group was usually forgotten when policy and programmes were being formulated. Ms. Haji gave examples of barriers that currently existed in society, such as the lack of relevant assistive technology, as a violation of the right of access to justice; people's negative attitudes against inclusive education; and services, systems and policies that were either non-existent or hindered the involvement of persons with disabilities in all areas of life (e.g. with regard to giving free and informed consent to treatment).

34. However, she added that negative attitudes against persons with disabilities could be changed through education and public awareness-raising and by showing good practices. She advocated for family-based organizations to be consulted and to be involved in the enforcement of the rights of persons with disabilities. Therefore, they needed support from governments to develop and conduct their campaigns. She also called for greater engagement and inclusion, and involvement by self-advocates.

35. She recommended that States ensure that information is made easily understandable and accessible, that inclusive education is guaranteed, and that persons with disabilities are included in their communities throughout their lifespan. She added that children who were included in school were less likely to live in poverty and more likely to have friends and relationships outside their families. Finally, she stated that our diversity brought uniqueness to each one of us and enriched the world, and affirmed that every individual was capable of contributing to society.

36. Mr. Béjar Rojas opened his presentation by affirming that States should provide more support not only to persons with disabilities but also to their family members. He referred to his experience as a family judge since 2012, adjudicating cases concerning families with members with disabilities, both children and adults.

37. He noted that the cases he most frequently adjudicated on were related to guardianship. In 90 per cent of them, family members were the ones who requested the deprivation of the right to exercise legal capacity for their relative with disability. In general, those cases were filed as a prerequisite for individuals with disabilities to obtain social security benefits and free health care upon reaching the age of majority. He observed that even where this was not legally required, many countries in Latin America had adopted that precondition in order for the person concerned to have access to social protection.

38. He described the history of discrimination and exclusion that persons with intellectual and psychosocial disabilities faced in many countries, and found that

guardianship processes were discriminatory and exclusionary as they were aimed at declaring a person incapable of taking their own decisions and at having their will substituted by that of a third party or a guardian. He affirmed that this amounted to deprivation of autonomy, and had a negative impact on the exercise of all human rights. He explained that guardianship was the rule in almost all Latin American civil codes. However, he noted that Peruvian judges had been adopting innovative measures to implement the principles and provisions of the Convention.

39. He described, as a good practice, the conventionality control, as conceptualized by the Inter-American Court of Human Rights, meaning the direct and mandatory application of the provisions of the Convention to a particular case. As a judge, he had adjudicated cases that had set precedents on the upholding of legal capacity and he had declared the guardianship system to be incompatible with article 12 of the Convention. He underlined that judges, as part of the State, were obliged to respect and uphold the Convention.

40. As examples, he described some of his rulings. In the first one, in which guardianship measures had been requested for two brothers in order for them to be able to access their respective pensions, he had declared the guardianship petitions unfounded and had adjudged that the Peruvian Civil Code articles on guardianship were inapplicable. He had ordered the State to grant the pension without any deprivation of legal capacity and had established a supported decision-making system with safeguards. He had held a meeting with the two brothers with psychosocial disabilities and had provided procedural accommodations so they could understand the procedure. An interdisciplinary team made up of a social worker, a psychologist and an educator had also provided support in the process. Finally, training on supported decision-making had been provided for relatives. In another case, the guardianship petition had also been dismissed and the judge had ordered the social security agency to provide indefinite health-care services without any assessment being required. He also described a third case, which had been filed by siblings of a woman with disabilities who wanted to deprive her of her right to dispose of inherited property. He explained that his role had required him to determine her support needs and which supported decision-making system she required. Once again with the participation of the interdisciplinary team, the procedure was explained to the woman, who was finally empowered to make her own decision.

41. Furthermore, he mentioned that among the cases coming before him concerning persons with disabilities, marriage annulment based on the impairment of one of the partners was also frequent, and that women with intellectual impairments were usually deprived of their parental rights. In cases before his court, he had dismissed petitions that would have violated human rights, h I enforced conventional rights, including social protection, and had provided support for persons with disabilities.

42. He concluded by saying that awareness-raising among judges was fundamental to upholding the Convention. He also added that persons with disabilities still faced many structural, normative and social barriers created by the State, and that it was necessary to strengthen the support role of family members. The role of the judiciary should not be limited to preventing the restriction of rights; rather, the judiciary should expand rights, in accordance with the will and preferences of all persons with disabilities, including persons with intellectual and psychosocial impairments.

43. Following the presentations, the representative of Estonia stressed the importance of valuing dignity and individual autonomy, of realizing the right of persons with disabilities to receive assistance at home in order to live independently and as part of the community, of developing accessible spaces, goods, services and homes, of assistive technologies, including e-services and information and communications technologies (ICTs), and of access to social protection for relatives who assisted family members with disabilities, as they faced higher poverty rates. The representative of Argentina emphasized that the social contribution of the family was also based on the family's diversity. She highlighted the interdisciplinary approach for assessing the kinds of support needed, and mentioned local laws and programmes covering basic services for persons with disabilities and specific training for assistants. The representative of Egypt described the family as a pillar of society and as being essential in the promotion of human rights, including the rights of women and children. The representative also mentioned the right of the child not to be

separated from his or her parents because of disability, and stressed the need for cooperation and for the exchange of data and best practices, internationally. The representative of Pakistan described the linkage between the State-supported financial strength of a family and a high quality of life for its members.

44. The representative of the Bahamas described a national social protection policy consisting of a monthly disability allowance for parents of children with disabilities. The representative of Saudi Arabia stressed the importance of awareness-raising campaigns and explained the country's national social protection scheme. The representative of Brazil underlined the importance of accessing information on family planning and reproductive rights. The representative of Fiji presented a broad definition of family that included the entire clan and community, and also promoted the active participation of persons with disabilities in all decisions affecting them. The representative of Colombia underscored the relevance of rights-oriented training, and of family planning methods. The representative of Qatar defined family as the fundamental unit of society, which made a paramount contribution to the enjoyment by all individuals of their human rights. She called for the family to be considered a stand-alone subject, indicating that that perspective would address the contribution of the family as well as the promotion and protection of human rights of persons with disabilities.

45. The representative of Portugal proposed flexible working arrangements to reconcile the family and professional lives of the person with disability and of other members of the family. The representative of the Russian Federation put forward the view that the provision of support to organizations of persons with disabilities was an important measure. She also described a policy of a barrier-free environment in education, employment, health care, social protection, sports, information, communication, culture, transportation and public spaces. The representative of Iraq described specific assistance and services for victims of terrorism.

46. The representative of the Gulf Cooperation Council underscored the need for freedom of choice, equal opportunities and effective participation of persons with disabilities, so that they could contribute to economic and social progress and to the attainment of the Sustainable Development Goals.

47. The representative of the United Nations Population Fund stated that, according to the International Conference on Population and Development, held in Cairo in 1994, families in their various forms should be strengthened and enjoy comprehensive protection and support. He added that, in accordance with the Conference's programme of action, it was necessary to develop policies to provide better social and economic support to families, acknowledging the rising cost of child-rearing. In addition, according to the framework of actions for follow-up to the International Conference on Population and Development beyond 2014, the world had seen shifts in household composition, with a rise around the world in the number of people living on their own, and more women-headed households. He underlined that the framework called upon States to provide financial support to help combat poverty, advance gender equality, ensure work-family balance, and promote intergenerational solidarity and quality of care for both children and older persons. He also mentioned that, according to the International Conference on Population and Development global survey conducted in 2014, single parents represented a significant proportion of all households across all regions, especially in Latin America and the Caribbean, and they were less likely to receive financial assistance and social protection. In addition, he informed the seminar that only 61 per cent of countries provided support to families assisting persons with disabilities, and that persons with disabilities living in single-parent households more often experienced economic poverty and limited access to basic services in the area of education and health.

48. A speaker from International Disability Alliance stated that diversity was part of the human experience and that disability was a form of human diversity. She emphasized the need to demedicalize disability and to shift from a stigmatizing care-oriented approach to a human rights-based and support-oriented approach. She affirmed the right of persons with disabilities, including persons with intellectual and psychosocial disabilities, to exercise legal capacity, to be the heads of families, to get married and to decide whether to have children or not. Finally, she emphasized that institutionalization was a clear and direct

violation of the Convention. The representative of Global Helping to Advance Women and Children stressed that families, as the primary support for relatives with disabilities, merited protection.

49. The representative of Save the Children underlined that children with disabilities were individual rights holders, and drew attention to the specific vulnerabilities they faced, such as violence, stigmatization and discrimination, including within their homes. The speaker also stressed the importance of supporting and strengthening parents and caregivers to ensure that they had the necessary skills, capacities and attitudes to fulfil their responsibilities to children and to empower them in the realization of their rights, including the right to be heard. The representative of Plan International stressed the importance of gender equality and the rights of persons with disabilities to access gender-sensitive sexual and reproductive health services without discrimination and on the basis of full, free and informed consent. The speaker also touched on the misconception that children and adolescents with disabilities were asexual, and on the effect on women's and girls' rights from patriarchal family structures reinforced by discriminatory family laws. The representative of Associazione Comunità Papa Giovanni XXIII stated that support networks among families with persons with disabilities were essential for sharing information and helping each other.

50. Finally, the representative of Inclusion International defined institutionalization as a deprivation of liberty and as a failure of societies. She stated that challenges were not related to the impairment but rather were rooted in society's failure to support children with disabilities and their family unit, and that the definition of family was not limited to parents and siblings — it included the extended family and those with whom a person with disabilities chose to share their life. The speaker stressed the importance of the following State measures: (a) cash transfers, tax relief and benefit programmes to offset disability-associated costs; (b) short breaks for parents; (c) support for working parents, including employment protection; and (d) capacity-building for parents and their organizations, so that they could obtain information, navigate systems, plan for the future and provide opportunities to connect with other families.

51. In response, Ms. Haji underscored the role of family members, not as caregivers but as supporters of children with disabilities, and added that States needed to fulfil their obligations to provide support for those families. Mr. Béjar Rojas highlighted the role of ICTs in supporting persons with different types of impairments and called for the adoption of new social programmes to support persons with disabilities and other family members.

D. Conclusions and recommendations

1. Conclusions

52. Ms. Haji reminded all Governments that they should consult with persons with disabilities and their families when designing public policies and awareness-raising campaigns. She affirmed that the best way to support families was to guarantee the inclusion of persons with disabilities in their own communities by ensuring accessibility and by celebrating their contributions and diversity.

53. Mr. Béjar Rojas recommended to States that they fulfil their international obligations effectively — including the Convention — by reforming legislation, practices, administrative structures and attitudes that undermine the effective enjoyment of these rights. He noted that, as a part of a State, the judicial branch also had a role to play in ensuring full respect and enjoyment of rights for persons with disabilities. He added that public policies should start to regard persons with disabilities as heads of families too, and governments should make support available to those families. He recalled that all persons with disabilities, including persons with intellectual and psychosocial disabilities, were entitled to respect for their legal capacity, and therefore innovative mechanisms and measures should broaden the enjoyment and exercise of their rights and prevent their restriction.

54. Ms. Pedreros emphasized that the jurisprudence of the Committee on the Rights of Persons with Disabilities offered guidance and a framework on how to provide protection for the rights of persons with disabilities and their families. The Convention and the Committee provided several elements for creating and developing public policies, programmes and laws. Those elements related to various articles of the Convention, such as article 8, on awareness-raising, and article 12, on equal recognition before the law, among others. She stressed the importance of article 19, on independent living and how the support should be aimed at enhancing inclusion in society and in the community. In addition, article 23 was important, as it concerned persons with disabilities not only as sons or daughters, but also as parents, with the equal right to start a family and have children. With that end in mind, training and support had to be provided by States. Finally, article 25, on the right to health, including sexual and reproductive health, was essential, especially for women with disabilities.

55. Ms. Helali indicated that families of persons with disabilities had specific needs, but in general they were confronting the same challenges as any other family. She agreed that ICTs, as accessibility tools and assistive technologies, could greatly change the lives of persons with disabilities and that Governments should make these available also for families. She also commended the solidarity shown by families in the area of exchanging knowledge. Finally, she considered that relatives should have time to rest from their assistance activities, should receive financial support, and when requested, should receive psychological counsel.

56. Mr. Mapemba acknowledged that families faced challenges due to the lack of support and services and that everyone wanted to live a full life in their own community. Therefore, inclusion was important and families needed information about human rights and how to support persons with intellectual impairments. He recommended that States invest in family-oriented organizations to build inclusive communities. Finally, he said: "When I have a typical life, my family has a typical life too."

57. Mr. Phon reinforced his commitment to his self-advocacy group in order to enable persons with intellectual impairments to receive quality educational and job opportunities. He underscored the importance of living independently, especially when parents had passed away.

58. Ms. Swenson stressed the importance of technologies, as a key tool impacting on persons with disabilities, and noted their relevance in the collection of statistical information. She also encouraged international and transnational cooperation, and national support for organizations of persons with disabilities. Furthermore, she recommended training and capacity development strategies for families, including online programmes, as not all families may have all the skills and knowledge to support their child with disabilities. She underlined that we all belong to the human family, and that this topic is profoundly important to the goal of freedom, justice and peace in the world, and emphasized the importance of teaching human rights in schools. Moreover, she regretted the fragmentation by diagnosis within the disability community, because it drove families apart with the false idea that commonalities for working and advocating together were built by the kind of impairment. On the contrary, she said, the best way to organize all services, including educational programmes, was through an approach based on person-centred planning, as this helps us discover all the relationships that the child and the family have and how everyone concerned can improve their lives within the family and in the community. Finally, she praised inclusive education as a path to having all children with disabilities included in all ordinary schools, which would lead people to think about human rights in ways that they would not otherwise do.

2. Recommendations

59. Participants at the seminar stressed that persons with disabilities, both adults and children, were individual rights holders. In that respect, implementation of the Convention was encouraged. The jurisprudence of the Committee on the Rights of Persons with Disabilities provided guidance for implementation of the Convention.

60. Families exist in diverse forms and, accordingly, a variety of kinds of support should be made available to all families of persons with disabilities, in order to ensure the individual's enjoyment and exercise of rights and inclusion and participation on an equal basis with others within families and in the community. Information, training and support for parents of children with disabilities and for parents with disabilities must be available for the full exercise of parental rights, as well as to respect the right to family both of the child and of the parents and to ensure that families are not separated on the basis of an impairment of the child or of either parent.

61. Another issue raised during the seminar was gender equality — also in the context of the Sustainable Development Goals (specifically Goal 5): most single-parent households are headed by women, and women and girls (with and without impairments) are commonly primary caregivers for other family members, including persons with disabilities. Therefore, support provided to families should take into account gender dimensions and ensure equal access to employment with flexible working conditions as well as respite services. Furthermore, restrictions to the right to marry and to sexual and reproductive health rights on the basis of gender, disability and other factors must be removed, and practices such as gender-based violence, including forced sterilization, must abolished by law (in line with Goals 3 and 5). Information and education must be made available on these topics; access to sexual and reproductive health services must also be made available.

62. Given the cycle of poverty and disability, and the fact that parents and family members are often obliged to give up their employment and activities to provide care for the individual with disability, persons with disabilities and their families both face exclusion from society. In order to combat this problem, States should create disability-specific social protection schemes and should mainstream disability in existing poverty reduction programmes (in line with Goals 1 and 2), ensuring that the policies and measures adopted take into account disability-related costs. Access to social protection must recognize the legal capacity of individuals with disabilities, and in no way require that they be subjected to substituted decision-making or other measures that are not in accordance with the principles and provisions of the Convention. Existing requirements and practices that infringe the Convention must be repealed and the requirements and practices replacing them must be aligned with the Convention. In the same vein, laws and practices that restrict the exercise of legal capacity must be repealed, in order to eradicate all substituted decision-making systems and to introduce and make available supported decision-making systems.

63. The heightened risk of violence, abuse, discrimination and stigmatization that persons with disabilities face in different settings, including institutional and family environments, was examined in several presentations. All over the world, persons with disabilities, mainly those with intellectual and psychosocial impairments, are deprived of their liberty. Many others live with their families and may be deprived of autonomy and freedom of choice, even in relation to everyday activities. The right to live independently and be included in the community should be upheld through community-based services and support for persons with disabilities and their families, and by making available housing and personal assistance services to ensure freedom of choice regarding where and with whom to live, on an equal basis with others. Furthermore, as steps towards the promotion of present and future independent living, inclusive education within regular schools (in line with Goal 4) and inclusion within the open labour market (also in line with Goal 4) are key measures which create inclusive communities and which facilitate participation and inclusion across the full lifespan of the individual.

64. In order to tackle violations of human rights faced by persons with disabilities within and outside the home, including in institutions — such as discrimination, denial of legal capacity, denial of the right to live in the community, violence, deprivation of liberty, and barriers to accessing social protection, inclusive education and employment — access to justice should be guaranteed. Support services, education, information and awareness-raising campaigns should accompany the effort to render this right effective.

65. Given the increase in human rights violations during humanitarian crises and emergency situations, persons with disabilities — including child and adult refugees and

migrants with disabilities, and their families — should be priority recipients of services and support.

66. Training and awareness-raising, including for the judiciary, which is responsible for applying the law, is needed for effective application of the principles and provisions of the Convention. At the same time as legal and policy harmonization is taking place, including with the Committee's jurisprudence, innovative administrative and judicial measures can contribute to advancing the full enjoyment and exercise of the rights of persons with disabilities and their families, reversing existing patterns of discrimination.

67. Finally, a cross-cutting concern and recommendation was the need to systematically consult with and support representative organizations of persons with disabilities to ensure that all laws and policymaking concerning them are inclusive and take into account their lived experiences. Self-advocates and their organizations, as well as family-based organizations, are particularly necessary interlocutors, as they represent the key stakeholders.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child is submitted pursuant to Human Rights Council resolution 32/33. In the study, the Office of the United Nations High Commissioner for Human Rights examines the impacts of climate change on children and the related human rights obligations and responsibilities of States and other actors, including the elements of a child rights-based approach to climate change policies. The study provides examples of good practices and concludes with several recommendations.

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I. Introduction

1. The present study is submitted pursuant to Human Rights Council resolution 32/33, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to conduct a detailed analytical study, in consultation with relevant stakeholders, on the relationship between climate change and the full and effective enjoyment of the rights of the child.

2. On 9 September 2016, OHCHR circulated a note verbale and questionnaire to Member States requesting inputs for the study. Communications were also sent to other stakeholders, including international organizations, national human rights institutions and civil society. Their inputs were summarized in a conference room paper prepared by OHCHR in advance of the panel discussion on the adverse impact of climate change on States' efforts to realize the rights of the child and related policies, lessons learned and good practices, held on 2 March 2017.[1] The panel discussion, written inputs, consultations and independent research have informed the present study.

3. In the study, OHCHR examines the impacts of climate change on children and the related human rights obligations and responsibilities of States and other actors, including the elements of a child rights-based approach to climate change policies. It provides examples of good practices and concludes with concrete recommendations for fulfilling human rights obligations, particularly those related to children's rights, in the context of climate change.

II. Key impacts of climate change on children

4. Children are disproportionately affected by changes in their environment, due to their unique metabolism, physiology and developmental needs.[2] Changes in temperature, air and water quality and nutrition are likely to have more severe and long-term impacts on children's health, development and well-being. Young children, because of their less developed physiology and immune systems, will experience most intensely the effects of climate change-related stresses.[3] During childhood, alterations to the social and physical environment can have far-reaching implications for children's long-term physical and mental health and overall quality of life.

5. According to United Nations Children's Fund (UNICEF), there may be no greater threat facing the world's children, and future generations, than climate change.[4] In 2014, there were 2.2 billion children in the world, with approximately 30 per cent of the world's population being under 18 years old.[5] Existing and future demographic trends reveal that many of the countries that have been identified as highly vulnerable to climate change also have higher proportions of children in their overall population. These include parts of South Asia, the Pacific islands and other small island developing States, equatorial Africa and the Pacific coast of South America.

6. As discussed below, some of the most substantial impacts of climate change on children are caused by extreme weather and natural disasters, water scarcity and food insecurity, air pollution and vector-borne diseases and resulting psychological trauma. Children in vulnerable situations are disproportionately affected by climate change.

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[1] For the summary of the panel discussion, see A/HRC/35/14. The original inputs received and the informal summary of those inputs are available at www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/ChildRights.aspx.

[2] See generally World Health Organization (WHO), *Inheriting a Sustainable World? Atlas on Children's Health and the Environment* (2017), available at www.who.int/ceh/publications/inheriting-a-sustainable-world.en/.

[3] P.J. Landrigan and A. Garg, "Children are not little adults", in *Children's Health and the Environment: A Global Perspective*, J. Pronczuk-Garbino, ed. (Geneva, WHO, 2005).

[4] UNICEF, *Unless We Act Now: The Impact of Climate Change on Children* (New York, 2015), p. 6.

[5] UNICEF, *The State of the World's Children 2014: Every Child Counts* (New York, 2014).

A. Extreme weather and natural disasters

7. Climate change contributes to the increasing frequency and intensity of extreme weather events. Globally, nearly 160 million children have been identified as living in areas of high or extremely high drought severity.[6] More than half a billion children live in zones of extremely high flood occurrence, and approximately 115 million children live in zones of high or extremely high tropical cyclone risk.[7] Even under a medium-low emission scenario, the Intergovernmental Panel on Climate Change predicts a global sea-level rise of 0.53 metres by 2100, with coastal and low-lying areas at risk of submergence, flood damage, erosion and impeded drainage.[8] Floods and other natural disasters caused by extreme weather are likely to elevate mortality and morbidity among children.

8. Young children are more susceptible to injury and death during natural disasters. In the aftermath of the 2010 floods in Pakistan, rates of under-5 mortality in flood-affected areas were notably higher than the national average.[9] Natural disasters can also result in the separation of children from their family unit, increasing their vulnerability to subsequent harm.

9. Climate change is also expected to increase the duration and intensity of heat waves. This will affect children disproportionately, as their bodies adapt at a slower rate to changes in heat and they may suffer from heat rash, heat-related cramps, exhaustion, renal disease, respiratory illness, stroke and death.[10]

10. Extreme weather events can disrupt access to essential educational, health and housing services. For example, children's access to education can be interrupted by damage to educational facilities and critical infrastructure and by the use of schools as emergency shelters.[11] Similarly, damage to health infrastructure and essential drug supplies can make post-emergency interventions less effective. Floods and landslides, sea-level rise and powerful storms can degrade and destroy housing units and water and sanitation infrastructure, worsening living conditions, particularly for children, in unplanned and underserviced settlements.[12]

11. Climate change-related disasters can also disrupt child protection systems and exacerbate pre-existing tensions and conflicts, leaving children susceptible to abuse, child labour, trafficking and other forms of exploitation.[13]

B. Water scarcity and food insecurity

12. Climate change is already affecting water and food supplies, with severe consequences for children in poor communities. Changing patterns of precipitation, sea-level rise and increased evaporation as a result of climate change will reduce surface and

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[6] UNICEF, *Unless We Act Now*.

[7] Ibid.

[8] Christopher B. Field and others, eds., *Climate Change 2014: Impacts, Adaptation and Vulnerability. Working Group II contribution to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (New York, Cambridge University Press, 2014), pp. 308–309.

[9] UNICEF, *Unless We Act Now*, p. 30; see also WHO, "Pakistan floods 2010: early recovery plan for the health sector" (2011), p. 92.

[10] See, for example, Johns Hopkins Medicine, "Heat-related illnesses (heat cramps, heat exhaustion, heat stroke)", available from www.hopkinsmedicine.org/healthlibrary/conditions/pediatrics/heat-related_illnesses_heat_cramps_heat_exhaustion_heat_stroke_90,P00811/.

[11] Katie Harris and Kelly Hawthorn, "Climate extremes and child rights in South Asia: a neglected priority" (Overseas Development Institute, 2012).

[12] See generally A/64/255 on climate change and the right to adequate housing, para. 21 on the disproportionate impacts on children.

[13] Sheridan Bartlett, "Climate change and urban children: impacts and implications for adaptation in low- and middle-income countries", *Environment and Urbanization*, vol. 20, No. 2 (October 2008), pp. 509–510; Global Protection Cluster, "Strengthening protection in natural disaster response: children", available at www.globalprotectioncluster.org/en/tools-and-guidance/essential-protection-guidance-and-tools/protection-in-natural-disaster-essential-guidance-and-tools.html.

groundwater resources in most dry subtropical regions.[14] Droughts are expected to intensify, reducing access to water for personal consumption, agriculture and economic activities. Acidification and increasing water temperatures further threaten the fisheries upon which many coastal communities rely for subsistence.

69. Shortages of safe drinking water and food staples will have disproportionate impacts on children, particularly the poor. Children's consumption needs per body weight are higher than those of adults and food and water scarcity undermines their physical and cognitive growth.[15] Globally, undernutrition is responsible for nearly half of all under-5 deaths and is a major factor exacerbating the frequency and severity of other diseases and infections.[16] Inadequate responses to malnourishment during the first two years of life result in irreversible stunting with lifelong consequences for children's cognitive capacity, school performance and economic productivity.[17] It is estimated that, by 2030, climate change will result in an additional 7.5 million children under the age of 5 who are moderately or severely stunted.[18]

70. Food and water crises pose additional risks, such as increased incidences of school dropout, child labour and domestic violence. Crop and income loss has been linked to significant increases in the level of child labour used for household chores such as fetching water and searching for firewood.[19] When extreme weather affects the security of household incomes and families increase their reliance on child labour, children have less time and energy to dedicate to school activities.

C. Air pollution

71. In 2012, indoor and outdoor air pollution combined were linked to approximately [illegible] deaths among children under 5 years of age.[20] Although air pollution is not caused by climate change, some forms of air pollution cause climate change. Further, climate change can exacerbate some forms of air pollution, for example, by intensifying the toxicity of pollutants, such as ozone, a trigger of childhood asthma.[21] The heightened risk of wildfires associated with heat waves and drought affects air quality and children's respiratory systems, and warmer temperatures are also linked with the release of airborne allergens that can exacerbate asthma and allergic respiratory diseases.[22] Thus, air pollution and climate change contribute to a vicious cycle that disproportionately affects children, who, due to their higher breathing rate, are more susceptible to respiratory problems and infections related to air pollution.[23]

D. Vector-borne and infectious diseases

72. Children are more susceptible than adults to many vector-borne and infectious diseases. Waterborne diseases typically spread in the aftermath of climate change-related floods and storms, especially when water and sanitation infrastructure is damaged. Poor hygiene and consumption of contaminated water can contribute to increased incidence of diarrhoea and cholera, among other illnesses. Diarrhoea is the second leading cause of

[14] Field and others, *Climate Change 2014*, p. 232.

[15] Landrigan and Garg, "Children", pp. 3-4.

[16] UNICEF, "Undernutrition contributes to nearly half of all deaths in children under 5 and is widespread in Asia and Africa", available at https://data.unicef.org/topic/nutrition/malnutrition/.

[17] Linda G. Victora and others, "Maternal and child undernutrition: consequences for adult health and human capital", *Lancet*, vol. 371, No. 9609 (2008).

[18] WHO, *Quantitative Risk Assessment of the Effects of Climate Change on Selected Causes of Death, 2030s and 2050s* (Geneva, 2014), p. 86.

[19] Kathleen Beegle, Rajeev H. Dehejia and Roberta Gatti, "Child labor and agricultural shocks", *Journal of Development Economics*, vol. 81, No. 1 (October 2006).

[20] WHO, "Achieving a Sustainable World", p. 16.

[21] UNICEF, *Unicef Briefing Note*, p. 10.

[22] Field and others, *Climate Change 2014*, p. 729.

[23] Landrigan and Garg, "Children".

mortality in children under 5.[24] By 2030, it is projected that climate change impacts will result in 48,000 additional deaths from diarrhoeal disease in children under 15.[25]

17. Climate change is also likely to expand the seasonal and geographic range of vector-borne diseases, including insect-borne diseases with hosts sensitive to variations in temperature, humidity and precipitation. Malaria is expected to expand into tropical highland regions where the medical and immunological responses of populations may be ill-equipped to cope.[26] Infants and young and poor children living in areas with substandard health facilities are at particular risk. In 2015, roughly 300,000 children under the age of 5 died from malaria;[27] the majority lived on the African continent. Outbreaks of other diseases that affect children, such as dengue, Zika, leptospirosis, viral infections, meningitis, varicella, viral hepatitis, leishmaniasis and pertussis, have been linked to climate change.[28]

E. Impacts on mental health

18. Climate change and the impacts of traumatic stress connected to climate change, such as war/insecurity, sexual and physical violence and witnessing deaths and injury related to extreme weather disasters, negatively affect children's mental health. Children who lose a family member or experience life-threatening situations as a result of the impacts of climate change have a higher chance of experiencing post-traumatic stress, anxiety disorders, suicidal ideation and depression. Disasters can also affect children's cognitive capacity with corresponding impacts on their emotional well-being. For example, children affected by El Niño during early childhood posted lower scores in language development, memory and spatial reasoning than other children of a similar age.[29] Lower cognitive functioning in early life has been shown to increase the risk of future mental health problems.[30]

19. Children may also experience anxiety related to fear of separation from their families and heightened household tensions resulting from the loss of family livelihoods.[31] Children whose families are affected by climate change may be exposed to higher risks of violence, physical abuse, child labour, trafficking and exploitation. Their needs for rest and play may be subordinated to basic survival interests. In cases of displacement, separation from traditional lands and territories, from communities and from family members can have impacts on children's education, cultural identity and access to social support systems. All of these climate impacts have potentially severe mental health repercussions.

F. Disproportionate impacts on children in vulnerable situations

20. According to the Intergovernmental Panel on Climate Change, "people who are socially, economically, culturally, politically, institutionally or otherwise marginalized are especially vulnerable to climate change and also to some adaptation and mitigation responses".[32] The negative impacts of climate change will disproportionately affect poor children, indigenous children, minorities, migrants and other children on the move, children

[24] WHO, "Diarrhoeal disease", Fact sheet No. 330 (2013), available from www.who.int/mediacentre/factsheets/fs330/en/.

[25] WHO, *Quantitative Risk*, p. 44.

[26] UNICEF, *Unless We Act Now*, p. 48.

[27] WHO, "Malaria in children under 5" (2016), available at www.who.int/malaria/areas/high_risk_groups/children/en/.

[28] A/HRC/32/23.

[29] Arturo Aguilar and Marta Vicarelli, "El Niño and Mexican children: medium-term effects of early-life weather shocks on cognitive and health outcomes" (2011).

[30] Chuan Yu Chen and others, "Mild cognitive impairment in early life and mental health problems in adulthood", *American Journal of Public Health*, vol. 96, No. 10 (October 2006).

[31] Agnes A. Babugura, "Vulnerability of children and youth in drought disasters: a case study of Botswana", *Children, Youth and Environments*, vol. 18, No. 1 (2008).

[32] Field and others, *Climate Change 2014*, p. 50.

with disabilities and others in vulnerable situations. Girls also face heightened risks due to climate change. Additionally, disproportionate impacts will be felt by children living in developing countries, particularly those in geographically vulnerable areas, such as riparian and low-lying coastal areas, arid regions, high mountains, polar zones and other delicate ecosystems. The following sections contain illustrative examples of the disproportionate impacts of climate change on girls, indigenous children, children with disabilities and children on the move.

1. Girls and pregnant women

21. Girls are more likely to be pulled from school to perform household chores, such as eldercare, fetching water and cooking, when households are affected by climate change stresses.[13] To counteract the effects of climate change on livelihoods, girls may sometimes be sold into child marriage, trafficked or forced to work, with resulting impacts on their education, health, liberty and security. Evidence also suggests that food insecurity associated with climate change disproportionately affects girls.[14]

22. Situations of crisis can exacerbate gender inequalities, affecting girls more and differently. Gender inequalities have been linked to higher rates of mortality from natural disasters among women and girls.[15] In post-disaster settings, pregnant women, with their distinct needs for maternal health care, food, water, sanitation and hygiene, face unique health risks. Exposure to extreme temperatures, infection with water- and vector-borne diseases and post-disaster emotional distress during pregnancy have been associated with negative impacts on pregnancy outcomes, including miscarriage, premature birth and anaemia.[16] Girls' security and bodily integrity can also be threatened by climate change-related displacement. Evacuation to shelters lacking safe facilities for girls has been documented to heighten risks of all forms of sexual harassment and violence, including human trafficking. This can result in higher rates of forced girl pregnancies and forced marriages.[17]

2. Indigenous children

23. Many indigenous peoples rely upon climate-sensitive ecosystems for livelihoods as well as spiritual and cultural practices. Therefore, they are particularly threatened by the degradation of land, water and biodiversity. For example, the traditional livelihoods of indigenous peoples in the Arctic have been adversely affected by rising temperatures.[18] Many indigenous children live in impoverished communities which affects their capacity for climate adaptation. Indigenous peoples constitute approximately 15 per cent of the world's poor and one third of the 900 million people living in extreme poverty in rural areas.[19] Indigenous children may also be negatively affected by actions taken to mitigate climate change, such as projects related to the production of biofuel or hydroelectric power, which have sometimes resulted in the displacement of entire indigenous communities without their free, prior and informed consent.[20]

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[13] Global Gender and Climate Alliance, *Gender and Climate Change: A Closer Look at Existing Evidence* (2016), pp. 17-18.

[14] Ibid., p. 25.

[15] Eric Neumayer and Thomas Plumper, "The gendered nature of natural disasters: the impact of catastrophic events on the gender gap in life expectancy, 1981-2002", *Annals of the Association of American Geographers*, vol. 97, No. 3 (2007).

[16] Global Gender and Climate Alliance, *Gender and Climate Change*, p. 29.

[17] Anita Swarup and others, *Weathering the Storm: Adolescent Girls and Climate Change* (Plan International, 2011), available at www.unger.org/files/weatherTheStorm.pdf; and Claudia Felsan-Bierman, "Gender and natural disaster: sexualized violence and the tsunami", *Development*, vol. 49, No. 3 (September 2006).

[18] Field and others, *Climate Change 2014*, p. 1583.

[19] Department of Economic and Social Affairs, *State of the World's Indigenous Peoples* (New York, United Nations, 2009), p. 21.

[20] United Nations Environment Programme, *Climate Change and Human Rights* (Nairobi, 2015), pp. 8-9.

3. Children with disabilities

24. The negative impacts of climate change can exacerbate inequities already experienced by children with disabilities. The Convention on the Rights of Persons with Disabilities highlights that the majority of persons with disabilities live in conditions of poverty. Children with disabilities may experience social and economic exclusion, be left out of decision-making processes and have difficulty accessing social services. They are more likely to live in poverty and to experience physical abuse, while at the same time enjoying less access to educational and medical services.[61] These factors can contribute to the disproportionate impact of climate change on children with disabilities. The negative impacts of climate change on children can also lead to an increased risk of health-related disabilities.

25. In emergencies, children with disabilities may suffer higher rates of abuse, neglect and abandonment.[62] Insufficient accessibility considerations in evacuation, response and relief efforts caused by the exclusion of disability issues from disaster planning renders children with disabilities particularly susceptible to injuries and diseases.[63] Barriers to access to food, drinking water and medical relief in the aftermath of disasters can affect health and exacerbate the effects of children's disabilities.[64]

4. Children on the move

26. Climate change is increasingly recognized as a key driver of human movement. In the most extreme cases, all inhabitants of some small island States and low-lying coastal areas may need to be relocated. An estimated 22.5 million people per year for the seven years leading up to 2015 have already been displaced by climate- or weather-related disasters.[65] These disasters are expected to increase in both frequency and intensity with further climate change.

27. When sudden or slow-onset disasters result in large-scale human movement, children may be separated from their cultural heritage and face barriers in access to schools, adequate health-care facilities and other necessary goods and services. Overcrowded shelters with inadequate sanitation and access to clean water can increase the transmission of diarrhoea and malnutrition rates, both leading causes of child mortality.[66] Inadequate security and protection in some shelters can expose children to abuse and violence. Children travelling alone or separated from their parents can be particularly at risk of emotional, physical and sexual violence.[67]

III. Human rights obligations and responsibilities of States and other actors

28. The Convention on the Rights of the Child states that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Children's rights are inalienable and universal human rights entitlements enshrined in the Convention, which is the most widely ratified human rights instrument in the world. These rights are also reflected in treaties such

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[61] UNICEF, *State of the World's Children 2013: Children with Disabilities* (New York, 2013), available at www.unicef.org/sowc2013/files/SWCR2013_ENG_Lo_res_24_Apr_2013.pdf.

[62] A/HRC/31/30.

[63] Global Partnership for Disability and Development and World Bank, "The impact of climate change on people with disabilities" (2009).

[64] WHO, "Disasters, disability and rehabilitation" (2005), available at www.who.int/violence_injury_prevention/other_injury/disaster_disability2.pdf.

[65] Internal Displacement Monitoring Center, *Global Estimates 2015: People Displaced by Disasters*, p. 8 (Geneva, 2015).

[66] UNICEF and WHO, *Diarrhoea: Why Children Are Still Dying and What Can Be Done* (Geneva, 2009), available at http://apps.who.int/iris/bitstream/10665/44174/1/9789241598415_eng.pdf.

[67] UNICEF, *The Challenges of Climate Change: Children on the Front Line* (Innocenti Insight, Florence, 2014), pp. 29-32.

as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. All States are obligated to respect, promote, protect and fulfil a set of interrelated and indivisible civil, political, economic, social and cultural rights for all children without discrimination.

29. The impacts of climate change outlined in the preceding section clearly undermine the effective enjoyment of the rights enshrined in the Convention on the Rights of the Child, including the rights to life, survival and development (art. 6), family relations and not to be separated from one's parents against one's will (arts. 9-10), the highest attainable standard of health (art. 24), adequate standard of living (art. 27), education (art. 28), freedom from any form of violence or exploitation (arts. 19, 32 and 34-36), recreation and play (art. 31) and the enjoyment of one's culture (art. 30).[48] The Committee on the Rights of the Child has identified climate change as one of the biggest threats to children's health and has urged States parties to put children's health concerns at the centre of their climate change adaptation and mitigation strategies.[49] It has emphasized that States have a responsibility to protect children from environmental harms.

30. The negative impacts of climate change on children trigger obligations among all duty bearers to take action to protect all children from its actual and foreseeable adverse effects.[50] The importance of children's rights in the context of climate change is explicitly recognized in the Paris Agreement under the United Nations Framework Convention on Climate Change, in which States are called on to respect, promote and consider their respective obligations on, among other things, the rights of the child and intergenerational equity when taking action to address climate change.

31. The core human rights obligations of States and other duty bearers in the context of climate change are outlined in the key messages on human rights and climate change of OHCHR.[51] These obligations require States to take a human rights-based approach to protect those most vulnerable to climate change from its worst impacts. The 2030 Agenda for Sustainable Development, the Paris Agreement, the Sendai Framework for Disaster Risk Reduction 2015-2030 and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development all reaffirm State commitments to a human rights-based approach to development and climate action. A human rights-based approach analyses obligations, inequalities and vulnerabilities and seeks to redress discriminatory practices and unjust distributions of power.[52] A child rights-based approach to climate change mitigation and adaptation builds upon the essential attributes of human rights-based approaches while incorporating the specificities of children's rights, needs and capacities.

32. The Committee on the Rights of the Child has identified four general principles of a child rights-based approach: non-discrimination, the best interests of the child, the child's right to life, survival and development and the child's right to express his or her views.[53] A child rights-based approach to climate change should take into account the following:

(a) As climate policies and programmes are formulated, the main objective should be to fulfil human rights, taking into account the specific risks faced by children, their unique developmental needs, identification of their best interests and incorporation of their views, in accordance with their evolving capacities;

(b) Children's participation in relevant decision-making processes, including those related to climate adaptation and mitigation policies, must be ensured;

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[48] See CRC/C/JAM/CO/3-4, para. 50, CRC/C/LCA/CO/2-4, para. 52, CRC/C/TUV/CO/1, paras. 7 and 55.

[49] General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, para. 50.

[50] See, for example, A/HRC/32/23 and A/HRC/31/52.

[51] See A/HRC/33/31, annex II.

[52] See http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies.

[53] See general comment No. 5 (2003) on general measures of implementation of the Convention, para. 12.

(c) The obligations and responsibilities of duty bearers, such as States and private actors, must be clarified;

(d) Principles and standards derived from international human rights law, especially the Universal Declaration of Human Rights and the core universal human rights treaties, should guide all policies and programming.

33. A child rights-based approach requires States to take urgent action to mitigate climate change by limiting emissions of greenhouse gases in order to prevent to the greatest extent possible their negative human rights impacts on children and future generations. Protection of children's rights requires stopping development of the most carbon-intensive fossil fuels and transitioning to clean, renewable sources of energy. States also must take adaptation measures to protect and fulfil the rights of all children, and indeed all persons, particularly those most endangered by the negative impacts of climate change. All efforts to mitigate and adapt to climate change should be guided by relevant human rights norms, standards and principles, including those related to participation, access to information, transparency, accountability, equity, non-discrimination and equality.

34. In the United Nations Framework Convention on Climate Change and the Paris Agreement under that Convention, States are called on to take action on climate change on the basis of equity and in accordance with their common but differentiated responsibilities, while the Rio Declaration on Environment and Development and the Vienna Declaration and Programme of Action call for the right to development to be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. These commitments are reaffirmed in the 2030 Agenda for Sustainable Development, in which a just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met and development that benefits current and future generations are envisioned.

35. The principle of intergenerational equity underlying these frameworks places a duty on current generations to act as responsible stewards of the planet and ensure the rights of future generations to meet their developmental and environmental needs. This principle has been applied by the Committee on Economic, Social and Cultural Rights, which directed States to adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations.[54] States also have a moral and ethical obligation to place the needs of today's children and of future generations at the core of climate change policies and actions.

36. The human rights obligations of States require both individual action and international cooperation. States, acting individually and collectively, are obligated to mobilize and allocate the maximum available resources for the progressive realization of economic, social and cultural rights, as well as for the advancement of civil and political rights and the right to development. Equitable climate action requires that the burden of addressing and preventing the adverse effects of climate change is shared, taking into consideration the common but differentiated responsibilities of States. This means that those developed countries that have contributed the most to climate change should cooperate, including through the mobilization of finance and the transfer of technology and knowledge, to strengthen climate mitigation and adaptation capacity in these developing countries that have contributed the least. Particular attention should be paid to protecting children from the adverse effects of climate change.

37. Actors other than States also bear responsibility for climate change harm. The Guiding Principles on Business and Human Rights affirm that States have an obligation to protect human rights from business harm, while private enterprises have a responsibility to respect human rights and do no harm.[55] The Committee on the Rights of the Child has called on States to protect children's rights from harm caused by business enterprises, through the adoption of mandatory requirements for children's rights due diligence by

[54] See general comment No. 15 (2002) on the right to water, para. 28.

[55] See also UNICEF, The Global Compact and Save the Children, *Children's Rights and Business Principles*, available at http://childrenandbusiness.org/.

businesses.[56] States should also ensure children's access to effective redress mechanisms for violations of their rights by businesses, including through the exercise of extraterritorial jurisdiction as appropriate.[57]

38. States are obligated to provide effective and timely remedies for climate change-related harm, including for harm caused by climate mitigation and adaptation projects. Article 2 (3) of the International Covenant on Civil and Political Rights guarantees all persons, including children, the right to an effective remedy for violations of human rights. The Committee on the Rights of the Child stresses that in cases of violations of children's rights, there should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration.[58] Article 12 (2) of the Convention on the Rights of the Child establishes that children are to be provided the opportunity to be heard in any judicial or administrative proceedings affecting them, either directly, or through a representative or an appropriate body. Children's special and dependent status, their frequent absence of legal standing, power imbalances and lack of knowledge, including with regard to climate change, can impair their access to remedies. States are obligated to take appropriate steps to empower children and ensure their access to child-sensitive judicial and administrative processes.

39. The Convention on the Rights of the Child recognizes children's rights to seek and impart information and to have access to an education that fosters respect for the environment and the development of relevant life skills and knowledge.[59] Under article 6 of the United Nations Framework Convention on Climate Change, States parties are required to promote and facilitate public access to information on climate change and its effects. A child rights-based approach to climate action requires States to provide adequate, child-accessible and timely information about climate impacts, risks and hazards. States should conduct and disclose environmental and children's rights impact assessments and ensure an adequate education related to environmental issues in order to inform children's participation in climate decision-making. Education and access to information empower children and other actors, such as health professionals and policymakers, to advocate for children's rights.

40. All children are entitled to participate, according to their age and maturity, in all decisions that have a direct and indirect impact upon their well-being. Under article 12 of the Convention on the Rights of the Child, States are required to create an enabling environment where children can freely express their views and have them given due consideration. In the 2030 Agenda for Sustainable Development children, together with young women and men, are recognized as critical agents of change who can channel their infinite capacities for activism into the creation of a better world.[60] Under article 6 of the United Nations Framework Convention on Climate Change, States are directed to promote and facilitate public participation in addressing climate change and its effects and developing adequate responses. A child rights-based approach to climate change requires that children should not be treated as passive victims of events beyond their influence, but rather as agents of change whose preferences and choices are fairly reflected in policy design and implementation. Ensuring children's education and participation as called for in the 2030 Agenda will be critical to fulfilling this objective.

[56] General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights.

[57] Ibid., para. 44.

[58] Committee on the Rights of the Child, general comment No. 5, para. 24.

[59] See articles 13 and 29 and Committee on the Rights of the Child, general comment No. 1 (2001) on the aims of education, para. 9.

[60] General Assembly resolution 70/1, para. 51.

IV. Good practices in promoting children's rights in climate action

41. Some States, civil society organizations and other actors have already taken measures to integrate children's rights in their climate actions. Existing good practices should be used to inform and enhance further national and intergovernmental action on climate change. These may involve, for example, educational policies, disaster risk reduction measures, strategic litigation and engagement by human rights mechanisms.

A. Educational policies

42. Education on environmental stewardship, climate change and disaster risk reduction can prepare children of all ages to better address emerging environmental challenges. Most States that provided inputs for the present study had climate change education programmes and/or strategies to develop climate change and environmental curricula.[61] The United Nations Educational, Scientific and Cultural Organization, through its Climate Change Education for Sustainable Development programme, has been working with national Governments, particularly in African and small island developing States, to integrate climate change into national curricula through innovative approaches.[62]

43. In Italy, collaboration between the ministries for the environment and for education led to the launch of new guidelines for environmental education.[63] Extracurricular projects can also foster children's activism and involvement in climate change policies. In Zambia, UNICEF has supported the Unite4Climate project, a child-led advocacy programme that empowers young people aged 11 to 17 to become climate ambassadors and agents of change within their communities and in global climate negotiations.[64] Some States have established national platforms for young people to voice their concerns and share their ideas about climate change and other issues, for example, the national environment and health platform for young people in Lithuania[65] and the Children's Parliament in Namibia.[66] In Slovenia, the Administration for Civil Protection and Disaster Relief trains young people in disaster response and ensures access to information for all children, including those with disabilities.[67]

B. Disaster risk reduction

44. The incorporation of the principle of the best interests of the child throughout disaster risk reduction, sustainable development and climate change action is key to protecting children's rights in a changing climate. In the Philippines, the Children's Emergency Relief and Protection Act of 2016 provides for specific measures to protect and educate children in the context of emergencies, ensure their participation in relevant decision-making processes and collect better data.[68] In Viet Nam, a law on environmental protection incorporates the principles of the best interests of the child and gender equality in relation to green growth and climate change;[69] the country is also considering a child-

[61] The inputs used for the study are available at www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/RightsChild.aspx.

[62] United Nations Educational, Scientific and Cultural Organization, *Not Just Hot Air: Putting Climate Change Education into Practice* (Paris, 2015).

[63] Input from Italy.

[64] Input from UNICEF and Germany.

[65] Input from Lithuania.

[66] Input from Namibia.

[67] Input from Slovenia.

[68] Input from the Philippines.

[69] Input from UNICEF.

centred programme on disaster risk reduction for 2017-2021 that would focus on capacity-building in mitigating the impacts of recurring weather risks on children.[70]

45. Indonesia has linked its Child Friendly Cities initiative with climate change and disaster risk reduction objectives by piloting a child-centred climate risk assessment method.[71] In its development cooperation policy, Germany has committed to protecting the best interests of the child and has allocated funding for climate change adaptation, resilience and disaster risk reduction projects involving children and young people.[72] At the national level, Slovakia implements the Convention of the Rights of the Child through its national plan of action for children, which is taken into account in climate policies.[73]

C. Litigation

46. While future generations lack clear legal standing under international law, domestic developments highlight ways in which their interests can be protected through climate change policies and litigation. Some national constitutions have included references to future generations in their provisions on environmental rights. Article 33 of the Constitution of the Plurinational State of Bolivia, for example, enshrines the right to a healthy, protected and balanced environment to enable the development of individuals and collectives of present and future generations. While explicitly referencing future generations, as the Plurinational State of Bolivia has done, could provide a basis for climate litigation directly on behalf of those generations, this may not be explicitly necessary to protect their interests. Climate litigation by today's children has the potential to safeguard the interests of the next generations, and a legal basis for such litigation exists in many countries. For example, in Azerbaijan, articles 30 and 38 of the Law on child rights ensure protection and emergency support to children affected by natural disasters, and article 39 of the Constitution guarantees redress for damages caused by environmental impacts.

47. In some countries, children and their representatives have already engaged in environmental litigation. In *Minors Oposa v. Secretary of the Department of Environmental and Natural Resources*, the Supreme Court of the Philippines ruled on behalf of a class representing children that the State had an intergenerational responsibility to maintain a clean environment. In *Gbemre v. Shell Petroleum Nigeria Limited and Others*, a Nigerian court ordered Shell Petroleum to take immediate steps to cease gas flaring, which contributed to respiratory diseases, greenhouse gas emissions and agricultural problems. It found that gas flaring violated the rights to human dignity and life guaranteed in the Nigerian Constitution and the African Charter on Human and Peoples' Rights. In the United States of America, a group of 21 plaintiffs between the ages of 9 and 20 have filed suit against the federal Government alleging that inadequate climate change mitigation measures constitute a violation of their constitutional rights to life, liberty and property, among others.[74] Precedents such as these demonstrate the potential role of the judicial system in protecting children from harmful activities, including those that contribute to climate change.

D. Engagement by human rights mechanisms

48. National human rights institutions, the human rights treaty bodies and the special procedures and universal periodic review of the Human Rights Council can all play a role in protecting children's rights from the impacts of climate change. The Committee on the Elimination of Discrimination against Women, for example, is currently drafting a general

[70] See www.ohchr.org/Documents/Issues/ClimateChange/RightsChild/Update14.3/StatementPanelCCandrightsofthechildHEMHAKimNgoc.pdf.

[71] Input from UNICEF.

[72] Input from Germany.

[73] Input from Slovakia.

[74] *Juliana et al. v. United States of America et al.* See Our Children's Trust (www.ourchildrenstrust.org/us/federal-lawsuit/).

recommendation on gender-related dimensions of disaster risk reduction in a changing climate,[75] while the Committee on the Rights of the Child has issued, on several occasions, concluding observations including observations and recommendations on climate change.[76] In 2015, the Commonwealth Forum of National Human Rights Institutions issued the St. Julian's Declaration on Climate Justice, in which the institutions committed to, inter alia, "promote the principle of equality and non-discrimination in climate action, including the rights of children". The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, whose forthcoming report will focus on children, and other special procedure mandate holders have focused on the impacts of climate change on human rights in their reporting.[77] Finally, specific recommendations related to climate change and its impacts on the rights of the child have been issued on several occasions in the context of the universal periodic review of the Human Rights Council.[78]

V. Conclusions and recommendations

49. **The conclusions and recommendations below are derived from the various elements that have informed the present study.**

A. Conclusions

50. **The negative impacts of climate change, including the increasing frequency and intensity of natural disasters, changing precipitation patterns, food and water shortages, and the increased transmission of communicable diseases, threaten the enjoyment by children of their rights to health, life, food, water and sanitation, education, housing, culture and development, among others. Climate change heightens existing social and economic inequalities, intensifies poverty and reverses progress towards improvement in children's well-being. All children are exceptionally vulnerable to the negative impacts of climate change, with the youngest children being most at risk.**

51. **Climate change has a disproportionate impact on some children, including children with disabilities, children on the move, poor children, children separated from their families and indigenous children. Girls also face heightened risks due to climate change. In climate-vulnerable States and climate-sensitive areas, climate change poses a contemporaneous threat to inhabitants' rights to life, survival and development, among others. The rights and opportunities of children living in such areas can be severely affected. Beyond threatening children's physical well-being, climate change poses a threat to their cultural identity, to their connections with the natural environment and to their education.**

52. **The human rights obligations and responsibilities contained in the Convention on the Rights of the Child, the Paris Agreement and other international human rights instruments require States and other duty bearers, including businesses, to take action to protect the rights and best interests of children from the adverse effects of climate change. Many States already have in place laws, policies and commitments related to the protection of children's rights, the preservation of a healthy environment and climate change mitigation and adaptation. However, further action is needed to promote accountability for all actors, ensure children's access to justice and protect children from the negative impacts of climate change. Children have a right to meaningful participation in climate policymaking aimed at accomplishing these**

[75] See www.ohchr.org/EN/HRBodies/CEDAW/Pages/DraftGRDisasterRisk.aspx.

[76] See, for example, CRC/C/GBR/CO/5.

[77] See, for example, A/HRC/31/52 and www.thecvf.org/wp-content/uploads/2015/05/humanrightsSRHRE.pdf.

[78] See, for example, A/HRC/33/6 (Samoa, 2016), A/HRC/30/13 and Corr.1 (Marshall Islands, 2015), A/HRC/26/9 (Vanuatu, 2014), A/HRC/24/8 (Tuvalu, 2013) and A/HRC/16/7 (Maldives, 2011).

objectives and should play an active role in inspiring and shaping more effective climate policies.

53. Human rights, climate change, development and disaster risk reduction, including relevant international instruments and processes, are inextricably linked. A child rights-based approach to climate change mitigation and adaptation is called for by the intersections of these various frameworks with human rights obligations. It requires States to take affirmative measures to respect, protect, promote and fulfil the human rights of all children and to integrate their rights in all climate mitigation and adaptation policies and actions.

54. Fundamentally, a child rights-based approach requires:

(a) Ambitious mitigation measures to minimize the future negative impacts of climate change on children to the greatest extent possible by limiting warming to no more than 1.5°C above pre-industrial levels, as called for in the Paris Agreement;

(b) Adaptation measures that focus on protecting those children most vulnerable to the impacts of climate change;

(c) Mitigation and adaptation actions that are the product of participatory, evidence-based decision-making processes that take into account the ideas and best interests of children as expressed by children themselves.

55. Within these efforts, particular attention should be paid to girls, children with disabilities, indigenous children and other children who may be disproportionately affected by climate change. All children should be treated as active participants in climate action.

56. Truly sustainable, rights-based development requires climate actions that are informed by and take into consideration children's rights, intergenerational equity and the needs of future generations. These actions should be evidence based and supported by a free, transparent exchange of good practices, resources and technical assistance adequate to address the threat of climate change in line with international human rights laws, norms and standards.

B. Recommendations

57. A child-rights based approach to climate change requires all relevant actors to take steps to ensure children's rights policy coherence, empower children to participate in climate policymaking, guarantee children access to remedies for climate harm, better understand the impacts of climate change on children and mobilize adequate resources for child rights-based climate action. When pursuing these objectives, the particular needs of those children most vulnerable to climate change and its impacts must be taken into account.

1. Ensure children's rights policy coherence

58. States should ensure that children's rights considerations are integrated in their climate, disaster risk reduction and development activities. Efforts should be taken to link actions, positions and processes related to the United Nations Framework Convention on Climate Change, the Human Rights Council, the 2030 Agenda for Sustainable Development and the Sendai Framework for Disaster Risk Reduction 2015-2030 in order to establish a coherent approach to sustainable development that benefits all persons, particularly children. This should include:

(a) Implementing the Sustainable Development Goals relating to child poverty and malnutrition, access to education, child mortality and health, and water and sanitation, among others, in such a way as to enhance children's resilience to climate change and reduce inequalities;

(b) Integrating children's rights considerations in the implementation of the United Nations Framework Convention on Climate Change, including in the

transparency framework, in intended nationally determined contributions and other communications and in the work of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts and its task force on displacement, in order to promote accountability and more effective climate policies;

(c) Ensuring that climate adaptation policies improve disaster risk preparedness and enhance the adaptation capacities of all children, taking into account the needs and vulnerabilities of those most at risk. Gender considerations, for example, should be accounted for in climate change and disaster risk management policies, projects and planning processes.

59. Human rights mechanisms, including the Committee on the Rights of the Child, should consider ways to hold States accountable for their climate commitments, to better document the impacts of climate change and to promote rights-based climate action. As recommended during the day of general discussion on children's rights and the environment held by the Committee on the Rights of the Child, the issue of the environment could be routinely integrated in concluding observations. Civil society inputs to the Committee review process should address climate change and its impacts on children's rights and draw attention to the adequacy of States' individual contributions to efforts to limit climate change to 1.5°C above pre-industrial levels, as well as the impacts of climate actions. Similarly, States should use the universal periodic review mechanism of the Human Rights Council to promote accountability for climate and human rights commitments.

2. Empower children to participate in climate policymaking

60. All children, without discrimination, should be prepared for and included in climate decision-making in order to ensure that their best interests are protected. Children's involvement in the design and implementation of climate policies and climate vulnerability assessments should be facilitated according to their age and maturity.[78] Consultative mechanisms, improved dissemination of information and other strategies to engage children are needed for their meaningful participation. States should facilitate the participation of children in ongoing processes related to the United Nations Framework Convention on Climate Change that are likely to affect their development and survival.

61. Climate change education can empower educators, parents and children as agents of change. Educational curricula should transfer knowledge and develop skills that will equip children to confront climate-related challenges taking into account each child's particular local context and, as appropriate, traditional knowledge. Climate education should, inter alia:

(a) Raise awareness about appropriate lifestyle choices for sustainable development, such as low-carbon transportation, energy and consumption behaviours;[79]

(b) Emphasize solidarity, promote cooperation with children from other countries and create opportunities for children's participation in environmental decision-making;[80]

(c) Include access to up-to-date, meaningful and age-appropriate information about the causes of climate change, its impacts and adaptive responses, including disaster risk reduction and emergency preparedness.

[78] For example, the inclusion of girls as participants in the design, planning and implementation of climate strategies will lead to more effective policy formation. See, for example, United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and Mary Robinson Foundation — Climate Justice, *The Full View: Ensuring a Comprehensive Approach to Achieve the Goal of Gender Balance in the UNFCCC Process*, 2nd ed. (2016), available at www.mrfcj.org/wp-content/uploads/2016/11/MRFCJ-Full-View-Second-Edition.pdf.

[79] See, for example, target 4.7 of the Sustainable Development Goals.

[80] See, for example, Committee on the Rights of the Child, general comment No. 1, paras. 9 and 13.

5. Guarantee children access to remedies

62. States and other responsible actors should take measures to ensure that children have access to effective remedies when they suffer harm from climate action and inaction. Such measures could include:

(a) Integrating the right to a healthy environment and the rights of future generations in national constitutions and legislation in order to promote the justiciability of those rights and strengthen accountability systems;

(b) Ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, which established a complaints procedure for violations of children's rights;

(c) Employing extraterritorial jurisdiction and taking other measures, as appropriate, to ensure responsible conduct by businesses not only in emissions reductions but also in remedying past harm;

(d) Developing a loss and damage system that ensures effective remedies for climate-related human rights harm, particularly that experienced by children;

(e) Ensuring that climate mitigation and adaptation projects provide access to effective redress mechanisms for human rights harm.

4. Better understand the impacts of climate change on children

63. In order to better protect children from the impacts of climate change, all actors should support improved understanding of the relationship between climate change and children's rights. This could be promoted through measures such as:

(a) Disaggregated data collection;

(b) Impact assessments with respect to children's rights and future generations;

(c) Enhanced intersectoral cooperation, as called for in the Geneva Pledge for Human Rights in Climate Action;

(d) Establishment of standing consultative committees that include children's perspectives;

(e) Improved reporting on children's rights and climate change to relevant United Nations Framework Convention on Climate Change and human rights mechanisms.

64. In this regard, civil society actors and participants at the 2010 Social Forum have called for the appointment of a United Nations special rapporteur on human rights and climate change.[81]

5. Mobilize adequate resources for child rights-based climate action

65. States, keeping in mind their human rights obligations and their common but differentiated responsibilities and respective capabilities, should take measures to mobilize adequate resources for effective climate action that does not harm but rather benefits children. States should ensure transparent, participatory and informed decision-making in the allocation of resources, including by conducting impact assessments with respect to children's rights and future generations. Further, measures should be taken to improve international cooperation and build capacity for climate action in developing countries through the transfer of technology and the sharing of technical expertise. Mitigation must be a top priority, as it is the key to minimizing the negative impacts of climate change. In these efforts, businesses also have human rights responsibilities, which must not be neglected.

66. With regard to climate adaptation, resources should be directed towards efforts to promote non-discriminatory access to basic necessities and services for children in

[81] A/HRC/16/62

the light of the adverse effects of climate change. Investments in education and related infrastructure are a rights-based, cost-effective and sustainable method of empowering children. Health, water and sanitation, housing infrastructure and related services are also critical to children's adaptation and resilience. Disaster risk reduction, including training for teachers, parents and children, and climate-resilient schools and infrastructure, is another key area for investment. In the aftermath of climate-related disasters, resources should be devoted to ensure children's access to health services, to reunite children with their families and to not only protect them with physical support, such as food and clean water, but also to provide psychosocial care to prevent or address fear and trauma.[87] Support should take into account children's distinct needs for play and safety.

[87] See Committee on the Rights of the Child, general comment No. 17, para. 49.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the panel discussion on the adverse impact of climate change on States' efforts to realize the rights of the child and related policies, lessons learned and good practices

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 32/33, in which the Human Rights Council decided to hold a panel discussion on the adverse impact of climate change on States' efforts to realize the rights of the child and related policies, lessons learned and good practices. The Council also requested the Office of the United Nations High Commissioner for Human Rights to submit to the Council, at its session following the panel discussion, a summary report, including any recommendations stemming therefrom, for consideration of further follow-up action. The present report summarizes the panel discussion on human rights and climate change that was held on 2 March 2017 during the thirty-fourth session of the Council.

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I. Introduction

1. Pursuant to its resolution 32/33, the Human Rights Council held a panel discussion on the adverse impact of climate change on States' efforts to realize the rights of the child and related policies, lessons learned and good practices.[1]

2. The panel discussion was chaired by the Vice-President of the Human Rights Council, Amr Ramadan, and it opened with a statement by the Director of the Thematic Engagement, Special Procedures and Right to Development Division of the Office of the United Nations High Commissioner for Human Rights.

3. The discussion provided an opportunity for States, international organizations and other relevant stakeholders to discuss the impact of climate change on the enjoyment of the rights of the child, with a focus on facilitating effective, rights-based climate action through the exchange of knowledge and good practices between expert panellists, States, international organizations and other relevant stakeholders.

4. The panel was moderated by the Deputy Permanent Representative of the Philippines to the United Nations Office and other international organizations in Geneva, Maria Teresa T. Almojuela. The panellists were the Deputy Minister of Foreign Affairs of Viet Nam, Ha Kim Ngoc; the Permanent Representative of Bangladesh to the United Nations Office and other international organizations in Geneva, M. Shameem Ahsan; the Director of the Geneva Liaison Office of the Division of Public Partnerships at the United Nations Children's Fund (UNICEF), the Rapporteur of the Committee on the Rights of the Child, Kirsten Sandberg; and the founder of the Green Hope Foundation, Kehkashan Basu.

II. Opening session

5. The Director of the Thematic Engagement, Special Procedures and Right to Development Division stated that the Convention on the Rights of the Child and other human rights instruments required action to address the threat of climate change. The Committee on the Rights of the Child had found that climate change was a serious threat to children's health and that it exacerbated health disparities. Climate change increased risks posed to children by diseases, malnutrition, heat stress, natural disasters and displacement, affecting their rights, their well-being and even their survival. With this in mind, it was essential for children to be at the centre of mitigation and adaptation strategies.

6. Climate change also posed a direct threat to children's identities, their livelihoods and their relationship with the environment. From a legal, ethical and moral perspective, when children died as result of preventable, anthropogenic causes, insufficient preventative action challenged the very conception of justice. However, States' current commitments to address climate change were projected to fall far short of the action needed to stay below the 2°C warming limit agreed to in the Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC) and to satisfy their respective obligations related to the rights of the child and intergenerational equity. Each State had human rights obligations to prevent climate harms by regulating environmental practices, to protect vulnerable communities, to hold violators accountable and to ensure redress when harms were suffered.

7. A rights-based approach to climate action also required that children be empowered as agents of change and be ensured an education adequate for them to rise to future challenges. Children were entitled to participate (according to their age and maturity) in decisions that had a direct and indirect impact upon their well-being, including those related to climate policy. For example, the 2030 Agenda for Sustainable Development described children as agents of change critical to the transition towards an equitable, sustainable and

[1] The full video of the panel discussion is available from http://webtv.un.org/meetings-events/watch/panel-discussion-on-climate-change-and-child-rights-10th-meeting-34th-regular-session-human-rights-council-/5343577829001

fossil fuel-free development. Children had already demonstrated their importance as drivers of change in the climate arena. They were increasingly engaged in strategic litigation to promote more ambitious climate action. In *Juliana v. United States*, children had sued the Government of the United States of America, alleging various violations of their constitutional rights to life, liberty, property and equal protection as a result of inadequate responses to climate change. In concluding her opening statement, the Director emphasized the importance of the empowerment, education and inclusion of children for more effective climate action.

III. Summary of the panel discussion

8. Opening the panel discussion, the moderator — the Deputy Permanent Representative of the Philippines to the United Nations Office and other international organizations in Geneva — emphasized that this discussion on climate change and the rights of the child was deeply important to her Government. As one of the most vulnerable countries to climate change, the Philippines was counting on the effective implementation of the Paris Agreement, including a renewed push towards international cooperation to ensure effective mitigation and adaptation efforts. Climate change would increase both the frequency and the intensity of natural disasters, which were estimated to affect the lives of 250 million people worldwide each year, half of them children. The Philippines alone had recorded 274 disasters from 1995 to 2015, affecting 130 million people. Between 2007 and 2011, 10.8 million students in the Philippines had been affected by disasters, and 8,472 schools had been used as evacuation centres. In mid-October 2015, Typhoon Lando had displaced 1 million people, and had damaged 803 schools which were closed for an average of two weeks. One hundred and thirty-eight schools had been used as evacuation centres. Those disasters had also resulted in damage to socioeconomic and cultural infrastructure, further affecting the basic human rights of children. The Philippines had sought to highlight the link between climate change and the enjoyment of human rights by developing environmental policies that directly addressed and protected children's rights, such as its Climate Change Act of 2009. The country's Commission on Human Rights had also recently accepted a petition against 47 "carbon major" companies, which accused them of breaching millions of people's fundamental rights. The Commission called for an investigation into the human rights implications of climate change and the accountability of major polluters.

A. Contributions of the panellists

9. The Deputy Minister of Foreign Affairs of Viet Nam stated that there were many challenges to addressing the negative impacts of climate change on children's rights. For developing countries, inadequate resources, weak infrastructure and limited forecasting capacity all made it harder to adapt to and mitigate the impacts of climate change on persons in vulnerable situations, including children. There was insufficient awareness of how climate change affected children's rights. Over half a billion children — in total, 23 per cent of the world's children — lived in extremely high flood-occurrence zones. Nearly 160 million children lived in high or extremely high drought severity zones. In Viet Nam, drought and salinization caused by the longest period of El Niño in history had affected more than 500,000 children in the previous year.

10. Child-centred climate policies were needed. The Government of Viet Nam had adopted its National Strategy on Climate Change 2012-2020 and its National Strategy for Natural Disaster Prevention, Response and Mitigation to 2020, both of which underlined the significance of addressing negative climate impacts on children and provided frameworks for provinces to build their own plans. Those plans included comprehensive childcare and protection measures at all stages, and prioritized prevention. Viet Nam was also giving climate change communication a renewed focus in the potential development of a child-centred programme on disaster risk reduction for 2017-2021.

11. The Deputy Minister called for more efforts to improve awareness of climate change and its impacts on children. This required raising climate literacy through various means,

including through schools, the media, music festivals, television shows and the organization of workshops. In Viet Nam, climate change awareness was integrated into national curricula. Once children and adults understood climate change and its impacts on children, child-centred climate policies would follow. There was also a need to enhance international cooperation on climate change, with a focus on addressing negative impacts on children and on mainstreaming children's rights. The Deputy Minister concluded by calling upon the United Nations to lead international studies on the impact of climate change on children and thanking the United Nations for its invaluable assistance and support to Viet Nam during the previous year's El Niño episode.

12. The Permanent Representative of Bangladesh observed that the human rights and climate change nexus had been well elaborated in previous panel discussions at the Human Rights Council. The poorest in societies were the most vulnerable to harmful effects from climate change, with the children among them being particularly vulnerable. Climate change harmed the natural system, subsequently disrupting associated social, economic, cultural and political systems. Increased numbers of natural disasters, changes in rainfall patterns and sea level rise contributed to drinking-water and sanitation crises, the spread of communicable and non-communicable diseases, severe malnutrition, school dropouts, forced labour, and loss of life and livelihoods. Addressing the impacts of climate change required substantial public expenditures in related sectors. Climate change, therefore, severely constrained the capacity of States to ensure children's rights, including those to health, social security, education, protection from economic exploitation, and life.

13. The social impact of climate change on low-lying developing States could cause conflict, violence, and even mass displacement. Inadequate responses to cumulative weather-related losses and damage to lives, natural resources and livelihoods threatened more instability, with children being affected the most. Climate change would impede efforts to achieve the Sustainable Development Goals (particularly Goals 2, 3, 4, 8, 11, 13 and 16), harming most those countries that had contributed the least to climate change, which included Bangladesh. Urgent and ambitious climate action was critically needed to address that challenge. It was clearly stated in the Paris Agreement that when taking climate action, States should respect, promote and consider their respective obligations on human rights, thereby establishing a basis by which all States should undertake rights-based climate action including with regard to adaptation, mitigation, finance, transfer of technology and capacity-building. Hence, the Paris Agreement offered a clear opportunity to make all climate decisions in the best interests of the child.

14. At the national level, Bangladesh had implemented its plan of Nationally Appropriate Mitigation Actions, under which the Solar Homes Programme, inter alia, had been established. That programme provided off-grid electricity access to rural areas and had extended the length of study time for children. Bangladesh also hoped to scale up the use of solar irrigation pumps and of solar mini and nano grids to improve access to electricity and increase agricultural productivity, thereby, also promoting food security for children. These were mitigation measures, with adaptation co-benefits that responded to children's needs. The country's Climate Change Strategy on Adaptation had been similarly designed to take into account the needs and vulnerability of children, for example by using cyclone shelters as makeshift schools during disasters.

15. The Permanent Representative suggested some possible entry points for further action under the Paris Agreement and the UNFCCC, calling upon States to keep children's rights in focus when preparing and submitting their intended nationally determined contributions; to raise the ambition of their mitigation efforts; to ensure a loss and damage system that responded adequately to human rights obligations and particularly to children's rights; and to address the protection of children in the work of the task force on displacement established under the Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts. Furthermore, he called upon States to ensure responsible conduct by businesses, not only in the area of emissions reductions but also in making resources available for climate adaptation to protect children's rights. Linking the outbreak of various communicable and non-communicable diseases due to climate change, he also underlined that States might take advantage of the latest amendment to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) with regard

to affordability of medicines, in order to better realize the right to health of children and reduce child and maternal mortality. In order to protect children's rights from climate change, States needed to mobilize political will and action to realize the objectives of the Paris Agreement and the 2030 Agenda for Sustainable Development.

16. The Director, Geneva Liaison Office, Division of Public Partnerships, United Nations Children's Fund observed that climate change represented one of the most fundamental threats facing the world's children and future generations. Climate change affected children's rights, including their access to food and water, their health and development, their education and even their very survival, in a number of ways. Climate change had affected precipitation patterns and increased the frequency and intensity of hydrometeorological events, threatening the 500 million children living in flood-prone areas, the 160 million children exposed to severe droughts and the 115 million children at high risk from tropical cyclones. Disasters had an adverse impact on a whole range of other children's rights enshrined in the Convention on the Rights of the Child. It was, for example, linked to increased risk of psychosocial trauma, separation, exploitation and other child protection issues. Children from poor families were most at risk, since the poorest families tended to settle in areas more exposed to the adverse effects of climate change.

17. Climate change also exacerbated the spread of vector-borne diseases, a major cause of mortality for children under 5 years of age, and malnutrition, which accounted for 45 per cent of child deaths. Malnutrition and undernutrition in the first two years of life could also lead to irreversible stunting, affecting both the physical and the cognitive development of children, with resulting long-term implications for development. Furthermore, air pollution associated with fossil-fuel consumption contributed to pneumonia and other respiratory diseases. Around 300 million children lived in areas with toxic air that was six times below minimum air-quality standards. Air pollution contributed to around 600,000 deaths annually of children under 5 years of age. As a whole, children were more affected by climate change than adults due to their less developed physiology and immune systems, and they were at their most vulnerable during their first years of life.

18. The UNICEF representative emphasized that there was no time to waste with regard to protecting the rights of millions of children living in regions afflicted by rapid- and slow-onset disasters and toxic air pollution. The recognition of human rights and children's rights in the Paris Agreement was a major step in the right direction. Additionally, the urgent need to protect children and their rights in the context of climate change was emphasized in the Sendai Framework for Disaster Risk Reduction and in the Sustainable Development Goals. However, those words needed to be put into action, and the impacts of climate change on the enjoyment of children's rights needed to be further assessed to better inform that action. Urgent action was needed to limit global temperature rises to 1.5°C or lower, to improve energy efficiency, to phase out the use of fossil fuels and to transition to sustainable energy. Investments should also be channelled into building disaster-resilient health-care facilities, schools, and water and sanitation systems.

19. Finally, children of different ages, gender and social backgrounds should be allowed to participate in climate policymaking. Climate change education could empower educators, parents and children as agents of change in their own communities. Children's views and specific needs should be sought out, heard and acted upon, with children included in the development of international and national climate policies and actions. In concluding, the UNICEF representative called on Governments, the business sector and key stakeholders to clarify the actions required in order to achieve a safe, clean and sustainable environment and to integrate issues related to the human rights impacts of climate change and of climate action into their reporting to the Committee on the Rights of the Child.

20. The Rapporteur of the Committee on the Rights of Child described how the Committee's day of general discussion on the environment in 2016 had identified three categories of obligations, namely substantive obligations of mitigation and adaptation, procedural obligations, and heightened obligations for persons especially vulnerable to environmental harm, including children. Climate change threatened the best interests of children as well as nearly all of their substantive rights, including the rights to life, survival and development, to rest, leisure and play, to cultural life, to health, to an adequate standard of living, to housing, to food, to water and sanitation, to education, to identity and to

equality. Climate change, by aggravating existing inequalities in the use of and access to productive land and freshwater, could also contribute to violent conflicts, exploitation and large-scale migration or displacement. It posed an existential threat to indigenous children, due to their close relationship with the environment. A child rights-based approach to climate change was urgent and required that States take into account the rights and best interests of the child, especially the right to life, survival and development.

21. Relevant procedural rights affected by climate change included the rights to information, to environmental education and to participation. Children depended on information on climate change and its impacts to make choices and to exercise their rights to freedom of expression and to participation, in relation to environmental matters. Education played a significant role in empowering children to become actors of change and should include a clear, comprehensive and frequently updated climate change curriculum. That curriculum should reflect different local contexts, and should include information relevant to every child's respective situation and, as appropriate, traditional knowledge. Target 4.7 of the Sustainable Development Goals offered guidance by calling upon States to ensure that all learners acquired the knowledge and skills needed to promote sustainable development, including through education for human rights.

22. Particular regard should be given to children with disabilities, children from indigenous groups and other children in vulnerable situations, as they may be disproportionately impacted by climate change. It was important that they, like all children, be treated as agents of change and active participants in climate action. Target 13.B of the Sustainable Development Goals clearly indicated a need to "promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries … including focusing on … youth". In concluding, the Committee on the Rights of the Child rapporteur called for policies and mechanisms to be developed to involve children and young people in climate decision-making at the local, national and international levels.

23. The founder of the Green Hope Foundation described her work and her motivation, as an environmental activist at only 16 years of age. She observed that climate change added another dimension to human suffering and was the harshest reality of our time. Polar ice caps were melting, sea levels were rising, typhoons and hurricanes were wreaking havoc, forest fires were choking our skies and fossil fuel-driven economies were turning our cities into veritable gas chambers. Climate change impacted children's rights to life, to health, to education, to food and to shelter.

24. Yet, many had sought to trivialize the issue and its importance, in spite of drastic changes including widespread climate-induced displacement. Millions of people, including many children, had been forced by floods, droughts and rising sea levels to migrate from their homes and countries under uncertain circumstances that increased their risk of exploitation. Climate change also contributed to the burden of disease among children. Its impacts were estimated to be responsible, worldwide, for approximately 2.4 per cent of cases of diarrhoea and 6 per cent of cases of malaria. The impacts on girls were even worse, as girls had to fight against the additional dimension of gender discrimination in the face of disasters.

25. The Green Hope Foundation founder indicated that such situations were inspiring young people such as herself to speak out. As citizens of tomorrow, children had a leadership role to play in shaping the future. The Green Hope Foundation provided a platform for young people to come together and take action on climate change. It had grown into a multiregional organization with a management team comprised solely of children and over a thousand active volunteers fighting to promote climate justice, protect biodiversity, stop land degradation, encourage sustainable consumption and achieve gender equality. The Foundation organized "environment academies", which were tailor-made workshops and conferences conducted "by youth, for youth". It had also established partnerships not just within civil society but also with government utility bodies and with corporates. The Green Hope Foundation founder recognized that climate change posed the greatest threat to children's survival. For that reason, she was particularly grateful to have been given the opportunity to speak up for child rights in relation to climate change at the Human Rights Council.

B. Interactive discussion

26. Interventions were made during the plenary discussion by representatives of Algeria, Argentina, Australia, Benin, the Plurinational State of Bolivia, Canada (on behalf of the Francophone countries), Chile, China, Costa Rica (on behalf of the Geneva Pledge for Human Rights in Climate Action), Egypt, El Salvador (on behalf of the Community of Latin American and Caribbean States), Ethiopia, the European Union, France, Georgia, Germany, Greece, India, the Islamic Republic of Iran, Ireland, Kyrgyzstan, Malaysia, the Federated States of Micronesia, Morocco, Myanmar, Pakistan (on behalf of the Organization of Islamic Cooperation), Sierra Leone, Slovenia, Spain, Tonga, Tunisia (on behalf of the African Group) and the Bolivarian Republic of Venezuela.

27. Representatives of the following non-governmental organizations spoke: CIVICUS — World Alliance for Citizen Participation, the Friends World Committee for Consultation, the International Youth and Student Movement for the United Nations, the Centre indépendant de recherches et d'initiatives pour le dialogue, International-Lawyers.Org and the Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco (in collaboration with VIDES Internazionale).

28. A number of other participants requested the floor during the panel discussion but were unable to deliver their statements owing to a lack of time. These included representatives of the following States: Botswana, Ecuador, Fiji, Haiti, Libya, Madagascar, Maldives, Mexico, Mongolia, Montenegro, Paraguay, Peru, South Africa, Sudan, Togo and the United Arab Emirates; and of the non-governmental organizations China NGO Network for International Exchanges, the International Council Supporting Fair Trial and Human Rights, the Khiam Rehabilitation Centre for Victims of Torture and the Ma'arij Foundation for Peace and Development.

29. Speakers agreed that climate change negatively affected a broad array of children's rights and hampered State efforts to respect, promote, protect and fulfil human rights for all children. Specific examples were raised of climate change and its impacts on the enjoyment of children's rights to life, health, food, education, development, and water and sanitation, among others. It was observed that children under the age of 5 were the worst affected by climate change and associated increases in the incidence of diarrhoea, malnutrition, malaria, dengue fever and other causes of child morbidity and mortality. Children were also more vulnerable than adults to intense ultraviolet radiation, inadequate shelter and indoor air pollution. In addition, climate change disrupted children's right to education through, inter alia, school closures and damage caused by natural disasters, displacement and associated impacts. Destruction of infrastructure and related socioeconomic losses also impacted children's rights and State efforts to fulfil them.

30. Speakers emphasized that while all children were disproportionately impacted by climate change, children in vulnerable situations and future generations were impacted even more, which constituted a clear injustice. Those most affected by climate change had contributed the least to its making. They included girl children, children living in poverty, indigenous children, displaced children, children separated from their families, children with disabilities, and children living in and reliant upon geographically or ecologically vulnerable areas, such as arid regions, high mountains, islands and other coastal areas, forests and so on. Several speakers expressed their concern about the immediate impact of climate change on small island developing States and other climate-vulnerable States. They urged that the interests of children be put at the centre of climate-change policy responses in those States, which were already feeling the impacts of climate change, such as sea level rise, coastal erosion and intensified natural disasters.

31. It was emphasized that in climate-vulnerable States, climate change posed a contemporaneous threat to inhabitants' rights to life, survival and development, among others. The rights and opportunities of children living in those States were severely affected by the struggle for survival in their places of origin. Beyond threatening their physical well-being, climate change posed a threat to children's cultural identity and to the preservation of their connections with the natural environment.

32. Speakers also emphasized the importance of gender equality in all climate action, noting that women and girls were disproportionately impacted by climate change, including natural disasters. One speaker called for gender and social inclusion considerations to be taken into account in all climate change and disaster risk management policies, projects and planning processes.

33. Speakers also welcomed the Paris Agreement, with its explicit reference to human rights, including the rights of children. The Paris Agreement had reaffirmed that States had human rights obligations related to climate change. It was observed that businesses also had responsibilities related to addressing the impacts of climate change on the enjoyment of children's rights and that there was a need to ensure access to remedy when children's rights were violated. Speakers called for every effort to be made to ensure the successful rights-based implementation of the Paris Agreement. They also highlighted the links between climate change, human rights and the 2030 Agenda for Sustainable Development. It was emphasized that climate change threatened the implementation of development goals at all levels. In that regard, it was important to link up the actions, positions and processes related to the UNFCCC, the Human Rights Council, the 2030 Agenda for Sustainable Development and the Sendai Framework in order to ensure effective and concerted progress towards sustainable development that benefited all persons.

34. One speaker reiterated the call for the Human Rights Council to appoint a special rapporteur on human rights and climate change to facilitate efforts to make these critical links and in order to better understand the impacts of climate change on the enjoyment of all human rights. Another speaker emphasized the role of the Geneva Pledge for Human Rights in Climate Action in bringing together the human rights and climate communities. Along these lines, it was also suggested that greater intersectoral cooperation was needed among government agencies and other stakeholders at the national level. All stakeholders could make further efforts to integrate climate change-related human rights issues within the universal periodic review of the Human Rights Council.

35. Many speakers called for the enhancement of child participation in decision-making and highlighted the importance of education to empower children as agents of change. This was necessary in order to prepare children to address future challenges concerning climate change and the preservation of the environment. Some delegations outlined their own national policies for educating and raising awareness among children about climate change and its effects. These included integrating teaching on climate change mitigation and sustainable development into national school curricula, creating local and national participatory mechanisms for collaborative ecological actions and engagement of children, building networks of schools concerned with the environment, promoting gender equality in climate action, developing national action plans and strategies aimed at ensuring youth and child engagement on climate change, enhancing socioeconomic development in order to improve the quality of life of current and future generations, and establishing environmental education centres.

36. Speakers also called for increased international cooperation to promote a rights-based approach to mitigation and to adaptation to the negative effects of climate change. Action was needed in order to build capacity in developing countries, including through the transfer of technology. Some said that until financial pledges to address climate change were met, climate change would continue to affect generation after generation. They called for international solidarity in pursuing urgent climate action in accordance with the principle of common but differentiated responsibility. Many delegations described international cooperation to address climate change as being an integral part of their foreign policy and development strategies. The importance of sharing effective measures to combat the negative impacts of climate change on children's rights was emphasized.

37. Speakers put a number of specific questions to the panellists, asking them, inter alia, to share good practices in addressing the negative impacts of climate change on the rights of the child; to describe the potential role of child-centred policies in climate action; to elaborate on methods for mainstreaming human rights and specifically rights of the child in climate change adaptation and mitigation; to address how children's right to remedy could be strengthened, including through UNFCCC principles and taking into account the transboundary effects of climate change caused by the failure of States to comply with their

climate change obligations; to describe how social media could be used to disseminate climate change-related information; to identify critical steps to be taken at the international level to address the specific challenges that climate change poses to the protection of children's rights in developing countries; and to outline the basic actions needed to safeguard children's rights and promote intergenerational equity.

C. Responses and concluding remarks

38. During and after the interactive discussion, the moderator gave panellists the opportunity to respond to questions and to make concluding remarks. She observed that there was a common concern among States regarding the impacts of climate change on children's rights. With regard to her own country's actions on this issue, she stated that the Philippines had adopted and implemented emergency relief policies that had established child- and women-friendly transitional shelters for orphans and for separated and unaccompanied children; called for heightened surveillance work against child trafficking during disaster and post-disaster situations; developed a system to restore and reconstruct lost documentation in the aftermath of disasters; promoted child-responsive training programmes for community school personnel, for rescuers and for disaster responders; improved guidelines to reunite separated children with their families and relatives (a frequent issue on the ground); and involved children in disaster risk reduction planning and post-disaster needs assessments. She directed several questions that had been raised during the interactive dialogue to the panellists, asking them to consider, in particular, the role of the Human Rights Council with regard to protecting children's rights from the negative impacts of climate change, how the Council could promote a more harmonized approach between all actors, and how to best ensure that State obligations to protect children's rights in the context of climate change were met at the international level.

39. The Deputy Minister of Foreign Affairs of Viet Nam emphasized the need to build a climate-literate generation — through child-centred climate change policies, engaging families, schools and communities in children's climate education, and encouraging child participation in climate processes. Vietnamese climate policies were child-centred, encouraged stakeholder engagement at the national and international levels and kept children informed about climate change through television programmes and other media platforms. He also noted that international cooperation, and support from the United Nations, were both critical to addressing the adverse impacts of climate change on children's rights. Viet Nam had enjoyed effective support and cooperation from the United Nations with regard to researching and assessing climate impacts on children's rights, awareness-raising efforts, and disaster risk reduction for children. Work had been undertaken in collaboration with different government ministries to assess climate impacts on children's health, on their education and on their access to social services. The United Nations, in collaboration with the Ministry of Education, had worked to integrate climate change into school curricula across all ages. Viet Nam had also worked alongside United Nations agencies, particularly UNICEF, to develop a disaster risk reduction programme. Generally, this type of cooperation was critical to State efforts to pursue a sustainable, rights-based approach to climate change.

40. Citing an example from his own country, the Permanent Representative of Bangladesh emphasized the need to share best practices. The city of Rajshahi, Bangladesh, had gone from being one of the most polluted cities in the world to achieving a 67.2 per cent reduction of some forms of harmful pollutants by sending engineers to cities around the world to seek out best practices to reduce fossil fuel consumption. Among other things, they replaced fossil fuel-based transportation systems with sustainable ones and undertook afforestation programmes. The Permanent Representative also addressed State responsibilities at the international level, including implementation of the Paris Agreement. He noted that States should be conscious of the importance of awareness-building, which increased public pressure on leaders to do the right thing. National legislatures needed to be aware of climate issues and better understand the relationship between human rights, a healthy environment and development. In that respect, the Permanent Representative

welcomed and encouraged the good work done by the Inter-Parliamentary Union in Geneva.

41. The Director, Geneva Liaison Office, Division of Public Partnerships, United Nations Children's Fund agreed that national legislatures had a key role to play in addressing the impacts of climate change on children's rights, including the rights of girls and of other children disproportionately impacted by climate change. She emphasized that States had both national and transboundary responsibilities to protect children from the adverse effects of climate change and, in the event of climate harms, to ensure their access to remedy. Also under the Guiding Principles on Business and Human Rights, businesses had a responsibility to ensure access to remedy. With regard to information on the impacts of climate change on children's rights, the UNICEF representative highlighted the work of the Human Rights Council and called for disaggregated data collection which would help identify persons, including children, women and indigenous peoples, who may be disproportionately affected by the adverse impacts of climate change. Finally, she called for increased multisectoral cooperation, the development of child-friendly educational materials on climate change, which would facilitate children's participation in climate processes, and the integration of human rights and children's rights throughout relevant monitoring and review mechanisms, including those at the UNFCCC.

42. The Rapporteur of the Committee on the Rights of the Child also emphasized the importance of ensuring meaningful participation by children in climate action. This could be done by establishing standing consultative committees at the local and national levels that included children in government decision-making processes. The rapporteur called on States to take further steps to meet their human rights obligations to children, including through improved reporting to the Committee with regard to climate issues. Civil society inputs to the reviews of periodic State party reports to the Committee could also address climate issues by drawing attention to the adequacy of States' individual contributions to international efforts to keep climate change to less than 1.5°C above pre-industrial levels and to the human rights impacts of their climate actions. For its part, the Committee could help hold States accountable for any climate-related human rights concerns raised during the review process by issuing relevant recommendations and asking questions about the State's efforts, for example to regulate businesses, and to monitor and respond to negative climate impacts. Similarly, States could use the universal periodic review process to ask each other questions and hold each other accountable for their climate and human rights commitments. Finally, in order to address the transboundary impacts of climate change and promote access to effective remedies, States could employ extraterritorial jurisdiction where appropriate.

43. Responding to a question about the role of social media in addressing climate change, the founder of the Green Hope Foundation stated that social media helped circumvent geographic boundaries, permitting the foundation to expand its activities globally. She also called for heightened awareness about the veracity of information posted on social networks. It was necessary to promote the responsible use of social media platforms to ensure the accurate transmission of information. She concluded the panel discussion by reiterating that children should be given a voice and be involved in the decision-making, agenda-setting and implementation for climate change action.

44. Closing the discussion, the moderator emphasized that collective efforts were needed to build capacity to protect the rights of children and future generations, and to ensure that all human rights were protected in the follow-up to and implementation of the Paris Agreement. While there were a number of challenges to mainstreaming children's rights in climate action, the panel discussion had revealed many good practices. She hoped that the forthcoming summary on the panel discussion and analytical study on climate change and the rights of the child would make additional concrete recommendations for the protection and fulfilment of children's rights through climate action.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situations that require the Council's attention

Summary of the high-level panel discussion on the situation of human rights in the Syrian Arab Republic*

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In its resolution 33/28, the Human Rights Council decided to convene a high-level panel discussion on the situation of human rights in the Syrian Arab Republic during its thirty-fourth session, in consultation with the Independent International Commission of Inquiry on the Syrian Arab Republic, including on the issue of enforced disappearances and arbitrary detention, and the need for accountability for related violations and abuses, featuring witness testimony and Syrian voices. Also in that resolution, the Council requested the Office of the United Nations High Commissioner for Human Rights to prepare a report on the high-level discussion. The present report was prepared pursuant to that request.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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Introduction

1. Pursuant to its resolution 33/23, the Human Rights Council held a high-level panel on the situation of human rights in the Syrian Arab Republic on 14 March 2017, during its thirty-fourth session. The objectives of the discussion included increasing the visibility of violations and abuses of international human rights law and international humanitarian law committed by all parties to the conflict in the Syrian Arab Republic, with a particular focus on the issue of arbitrary detention, ill-treatment and torture in detention and enforced disappearances since 2011, and suggesting ways to address those issues and to bring alleged perpetrators to account.

2. The panel was chaired by the President of the Human Rights Council, Joaquín Alexander Maza Martelli. Opening statements were delivered by the United Nations High Commissioner for Human Rights, the Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic and the United Nations Regional Humanitarian Coordinator for the Syrian Crisis.

3. The panel was moderated by senior CNN international correspondent Arwa Damon and composed of the Executive Director of the Syrian Network for Human Rights, Fadel Abdul Ghani; a lawyer actively engaged with the Syrian Women's Network, Joumana Seif; the former Vice-President of the National Coalition of Syrian Revolutionary and Opposition Forces, former detainee and activist, Noura Aljizawi; co-founder of Raqqa is Being Slaughtered Silently and researcher on extremist groups in the Middle East, Sarmad al-Jilane; and a lawyer, free speech advocate and Director of the Syrian Centre for Media and Freedom of Expression, also a former detainee, Mazen Darwish.

II. Opening statements

4. In his opening statement, the United Nations High Commissioner for Human Rights reminded participants that countless people in the Syrian Arab Republic had been subjected to arbitrary detention, torture, abduction and enforced disappearance. The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Commission of Inquiry had continued to be denied access to the country and no international human rights observers had been admitted to places where, very probably, tens of thousands of people were being held and where torture was taking place. The High Commissioner highlighted that the conflict had begun with the detention and torture by security officials of a group of children in Daraa who had daubed anti-government graffiti on a school wall. As protests had swelled, the Government had attacked and waged war on its own people, spawning rebel movements, fuelling violent extremism and setting the stage for a regional proxy war. The High Commissioner stated that the entire country had become a torture chamber, a place of savage horror and absolute injustice. He noted that, as it entered its seventh year, the conflict in the Syrian Arab Republic was the worst man-made disaster the world had seen since the Second World War, and that the desperate appeals of civilians in Aleppo in 2016 had had little or no impact on global leaders, whose influence could help put an end to the fighting.

5. The High Commissioner added that atrocities committed against the Yazidi community by the extremist group known as Islamic State in Iraq and the Levant (ISIL), including the abduction and sale of girls and women as sexual slaves, had not generated swift, decisive action to ensure accountability. Vetoes had repeatedly pushed back hope for an end to that senseless carnage and for referral of alleged international crimes to the International Criminal Court. The High Commissioner noted that the adoption, in December 2016, of General Assembly resolution 71/248 establishing the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 had been a significant step forward. He added that OHCHR was moving as fast as possible to set up the International Impartial and Independent Mechanism, which would work alongside the Commission of Inquiry to

collect and analyse evidence and prepare detailed files on individual suspects with a view to building a foundation from which to initiate criminal proceedings against individual perpetrators. The High Commissioner stressed that ensuring accountability, establishing the truth and providing reparations must happen if the Syrian people were ever to find reconciliation and peace.

6. Detention remained a central issue for many in the Syrian Arab Republic, one that could determine the fate of any political agreement. The international community had to support the struggle of Syrian families to know the truth. The High Commissioner ended his statement by urging all parties to end torture, stop executions and cease unfair trials by special and ad hoc courts. He called upon humanitarian actors and international monitors to be given access to all detention centres. He urged all parties holding detainees or captives to release them or at least disclose the names and localities of those in detention and the place of burial of those who had died.

7. In his opening statement, the Chair of the Commission of Inquiry reminded those present that the Human Rights Council had gathered to hear directly from witnesses and victims of the conflict and to draw attention to the need for accountability for violations and abuses committed during the conflict, including enforced disappearances and cases of arbitrary detention. He stressed that it was a privilege to hear from some victims directly, as many thousands of others could not be heard; too many voices had been silenced by enforced disappearance, arbitrary detention or death. Enforced disappearance in particular left families in painful suspense, uncertain of the fate of loved ones and unable to find closure. The Chair noted that the Commission of Inquiry had investigated and produced over 20 reports and special thematic papers documenting the suffering of the Syrian people since 2011. He referred to the report of February 2016, in which the Commission of Inquiry concluded that the massive number of detainees who had died suggested that the Government was responsible for acts that amounted to extermination, a crime against humanity. Meanwhile, armed groups ill-treated and executed captives, some of whom died after being tortured. ISIL and Jabhat al-Nusrah, both of which had been designated terrorist groups, had used makeshift courts to execute prisoners. ISIL had tortured and executed detainees, including journalists and activists.

8. The Chair added that, in each of its reports, the Commission of Inquiry had called for a political solution that would ensure credible and comprehensive accountability, and had repeatedly urged the Security Council to either refer the situation in the Syrian Arab Republic to the International Criminal Court or create an ad hoc tribunal. The Commission of Inquiry therefore welcomed continued efforts to ensure accountability, reiterated its readiness to cooperate with the International Impartial and Independent Mechanism and welcomed the report of the Secretary-General on the implementation of that resolution. The Commission of Inquiry would continue to make recommendations to Member States and to all parties to the conflict to protect and fulfil the human rights of the Syrian people, including by ensuring a path to justice for victims.

9. In his opening statement, the Regional Humanitarian Coordinator for the Syrian Crisis reminded participants that 13.5 million Syrians required protection and assistance, noting that such needs had reached unprecedented levels of complexity, scale and severity. Since 2011, more than half of all Syrians had been forced to flee their homes and 6.3 million of them had been internally displaced.

10. The protection of civilians was a significant concern across all governorates. As at the end of January 2017, nearly 650,000 people had been living in 13 areas under siege, deprived of regular assistance and unable to move freely. Indiscriminate attacks against civilians and civilian infrastructure, including schools and medical facilities, by all parties to the conflict had been extensively documented. The Regional Humanitarian Coordinator highlighted that in 2016 the United Nations had verified 38 attacks on education facilities and personnel, while from January to December 2016 there had been 338 attacks on hospitals and health centres during which dozens of health-care workers had been killed.

11. While the protection of civilians had been a central concern in all humanitarian operations in the Syrian Arab Republic, preventing and responding to violations of international human rights law and international humanitarian law in such a context had

been uniquely challenging. Humanitarian agencies were too often unable to deliver life-saving assistance and protection services in a timely and sustained basis to the 4.7 million people who lived in besieged and hard-to-reach areas, including the 1.3 million people in areas controlled by ISIL. The Regional Humanitarian Coordinator regretted that in February 2017 not a single inter-agency cross-line convoy of the 20 requested had been granted access since the establishment of the International Syria Support Group.

12. The Regional Humanitarian Coordinator said he had been appalled by reports from the Commission of Inquiry, OHCHR and others about murders and cases of arbitrary deprivation of liberty, torture and inhuman treatment perpetrated by all sides. He stressed that neutral and impartial international humanitarian agencies, such as the International Committee of the Red Cross, had to be granted immediate and unhindered access to detainees and detention facilities in order to prevent further abuses, arbitrary detentions and enforced disappearances.

13. He highlighted serious concerns regarding Syrians involved in humanitarian activities inside the Syrian Arab Republic. In 2016, as part of the "whole-of-Syria" approach, humanitarian partners had reached a combined 11.2 million people in the Syrian Arab Republic with multisectoral assistance. Cross-border assistance from Jordan and Turkey had continued to represent a core element of the humanitarian response. The bulk of humanitarian assistance had been provided by a wide array of non-governmental partners. Thousands of Syrians working for national or international non-governmental organizations (NGOs), often in partnership with the United Nations, had been operating in areas under opposition control and had been playing a critical role, not only in providing assistance but also in delivering services such as health and education. They had also suffered hundreds of casualties in the process. At least 66 humanitarian workers had been killed and 114 had been wounded in the first nine months of 2016 alone. The Regional Humanitarian Coordinator stressed that the safety, well-being and freedom of humanitarian workers and of medical and civil defence staff needed to be guaranteed. He regretted the persistence of arbitrary arrests of humanitarian workers suspected of supporting armed groups, as reported by the Commission of Inquiry. He noted that during the evacuation of eastern Aleppo at least three humanitarian workers had reportedly been arrested. In 2015 and 2016, 18 humanitarian workers had been arrested in the Syrian Arab Republic. One Syrian staff member of the United Nations Development Programme remained in detention and 27 staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East had been detained or had gone missing. While the United Nations had secured the release of many of its staff members, the ongoing arrest and detention of personnel was a matter of great concern and indicative of the protection risks that all humanitarian workers faced in the Syrian Arab Republic.

14. The Regional Humanitarian Coordinator urged Member States and United Nations agencies to consider how they could ensure the safety, security, freedom from arbitrary detention and well-being of humanitarian personnel. Attacks that killed or injured aid workers had to cease immediately. It was also vital for the future of the Syrian Arab Republic, to retain, protect and capitalize on the significant human capacity that had developed over the previous six years through the work of humanitarian organizations.

III. Contribution of the panellists

15. In her introductory remarks as moderator of the panel, Ms. Damon said that what was most shocking about the situation in the Syrian Arab Republic was that it was not shocking enough to galvanize into action those who had the power and capability to put their own agendas aside and simply stop the violence. She recalled the very first reports of schoolboys detained and tortured for spray-painting anti-government graffiti, the endless images of victims of barrel bombs, the crucifixions carried out by ISIL, the murders and the pillaging, the image of Aylan Kurdi lying on the beach or of little Omran in Aleppo, covered in grey dust and wiping blood off his face with his tiny hand, the countless other images of victims whose names were unknown, whose cries were listened to but not really heard. Ms. Damon highlighted that, from the outset, the conflict in the Syrian Arab

Republic had been and continued to be arguably the best documented war ever, largely thanks to the work of brave activists and citizen journalists.

16. In preparing for the panel, Ms. Damon had searched through her footage from 2011 for anything, any story that might have changed the course of the war, but found nothing. One of the first stories she had covered in Syrian Arab Republic was that of a woman in Damascus documenting human rights violations who had said that it was her responsibility to make the country better. Because of her work, the woman had been detained for 48 hours before being released thanks to her family's connections. Those 48 hours were enough for her to conclude that "they do not treat prisoners like human beings".

17. Ms. Damon added that other people she later interviewed had asked her: "Have you ever been in a situation where you wished you were dead? Where death would be a greater mercy than the pain inflicted on you?" Survivors had described torture techniques that epitomized how vile humans could be and that included forcing people into a tire while beating or burning the soles of their feet, hanging people until their arms were ripped from their sockets, inflicting electrocutions and carrying out rapes that sometimes involved sodomy. Many of those who had survived detention were ghosts of what they had once been and needed support. Ms. Damon said she had interviewed countless people who had not known where their loved ones were, had assumed they were dead, yet had painfully clung to the hope that they might still be alive. She spoke of a woman she had met in Greece who had spent years trawling detention facilities, looking for her husband in vain; she had eventually given up and decided to take the route to Europe with her daughters.

18. Ms. Damon said that the size and scale of the detention issue in the Syrian Arab Republic was arguably unprecedented in modern history. A lot of responsibility lay with the Government and its backers, but most of the players' hands were drenched in blood and what was perhaps more chilling was that the international community had not even begun to scratch the surface of the crimes committed in the Syrian Arab Republic. She noted that the most recent report of Amnesty International on mass hangings in Sadnaya prison was but the latest example. She ended by emphasizing that the families of the missing needed the support of the international community, and that there needed to be accountability for violations of international human rights law. Concrete steps were required to show Syrians that the international community would not continue to fail them. The tragedy of the Syrian Arab Republic was that the international community knew, but did nothing. She saluted the panellists for having the courage not to be silenced.

19. In his intervention, Mr. Abdul Ghani recalled the sixth anniversary of the popular action for democracy and change in the Syrian Arab Republic and noted that 106,000 persons were still being detained, 92,000 of whom by the Government. Of those detained, 80 per cent had been made to disappear. Some 13,100 persons had died as a result of torture. That data had been gathered over six years thanks to daily, meticulous work and despite unprecedented challenges, including insecurity and the risk of being arrested. Torture was systematic and many deaths in detention had resulted from poor conditions or the lack of medical care, as highlighted by the Commission of Inquiry in its report "Out of sight, out of mind: deaths in detention in the Syrian Arab Republic", issued in 2016. Mr. Abdul Ghani noted that his organization had documented some 46 torture techniques and continued to document cases on a monthly basis. Other parties, such as the Al-Qaida affiliate Jabhat al-Nusrah, the Kurdish People's Protection Units (YPG), armed opposition groups and ISIL, had started replicating those techniques. According to Mr. Abdul Ghani, Jabhat al-Nusrah was holding 1,600 people in captivity, ISIL 7,400, armed opposition groups 2,600 and YPG 2,100.

20. Mr. Abdul Ghani highlighted that detention could not be tackled without addressing the entire conflict in the Syrian Arab Republic. He noted that, despite the Astana ceasefire agreement, casualties continued to be documented, with 780 people killed in January and 876 in February. Cases of arbitrary arrest and torture continued, with 390 such cases recorded by the Syrian Network for Human Rights in January and 720 in February. International human rights law and international humanitarian law had been completely flouted and marginalized, and while three resolutions on detention in the Syrian Arab Republic had been adopted there had been no progress on the issue.

21. In conclusion, Mr. Abdul Ghani stated that, despite the situation, some achievements could be made. Imposing harsher sanctions on States sponsoring the Syrian regime would have a significant effect.

22. Ms. Seif explained how her life and that of her family had been affected by arbitrary arrests and detention. In 1980, her uncle had disappeared after being snatched by security forces from his bed in front of his mother, his wife and his 1-year-old daughter Nour. The life of the family had been one of waiting. In the meantime, Ms. Seif's grandmother had passed away. Nour had only learned of her father's fate when she turned 20, when a high-ranking officer informed her that he had been executed in Tadmor prison many years earlier. In August 1996, Nour's brother, who was 21, disappeared and his whereabouts remained unknown. Ms. Seif's father, then a member of parliament, had been working on uncovering corruption but had decided to remain silent out of fear for the security of his children. The disappearance of his son had been a clear message that he should not pursue his work against corruption. In 2001, he was detained and sentenced to five years in prison after a sham trial for calling for changes to the Constitution. He was released in 2006. During the following two years, the family was systematically harassed by security forces and summoned regularly, until he was once again detained for two years for participating in an "unauthorized meeting". Another cousin of Ms. Seif had been arrested by the police and had disappeared for 10 days; he had been tortured and then released after the family had paid bribes.

23. Ms. Seif highlighted that her story was emblematic of how thousands of Syrian families had been affected by enforced disappearances, arbitrary detention and the torture of their loved ones. Those who had survived detention centres had described them as hell. All those crimes had been perpetrated by the Assad family — father and son — and not a single person had been held accountable for such acts. She said that the recent report of Amnesty International on executions in Sadnaya prison had been no surprise, and recalled that in 1982 the regime had massacred tens of thousands of Syrians in Hama without anyone having been held accountable. She added that, like many Syrians, she believed that if justice had been done for those crimes, the inhuman and cruel practices of detention, torture and cold-blooded executions would not have happened again and that the criminal elements from the other side claiming to be revolutionaries or opponents would not have dared to commit similar crimes.

24. Ms. Seif ended by emphasizing that it was high time to put an end to the culture of impunity in the Syrian Arab Republic. Justice was a right of all Syrians and their children. It was a condition for peace. Justice was not a means of revenge but a means to avoid revenge and to give hope for a better future, to create an atmosphere with a minimum of peace of mind. It was necessary for peaceful coexistence between Syrians. It was an invitation for Syrian refugees to return to their country and rebuild it, and it was also important for curbing radicalization and defeating terrorism. Any political track that did not address justice and accountability would not bring a sustainable peace.

25. Ms. Aljizawi described the conditions of her detention for six months at the Palestine branch, a detention centre in Damascus run by the Syrian military intelligence, and her disappearance in 2012. Hers was the story of thousands of Syrian women who had been detained, not just because they were human rights activists or had been involved in the provision of humanitarian or medical assistance, but because they were in a region whose population was perceived by the Government as belonging to the opposition. Women had been detained on the basis of their identity card. That was how dozens of women she had met had been detained. The women came from Daraya, Baba Amr, Al-Zabadani, Madayya, Al-Houla and hundreds of other villages and areas where the population had taken to the streets against the regime. Women had also been detained as a means of pressuring their families or extracting information under torture. Scores of women had reported to the NGO recently created by Ms. Aijizawi that they had been tortured in front of their husbands, brothers or parents in order to force them to confess.

26. Ms. Aljizawi spoke of detainees engraving their names on the walls of their cells with their nails. A few months after she had been detained, her sister read her name on the wall of cell number 13. Ms. Aljizawi wondered whether her daughter too would one day read her name, together with her sister's, on that same wall.

27. Ms. Aljizawi highlighted that no female staff worked in the detention centres, which meant that sexual and gender-based violence started from the minute of arrest, continued during searches by security officials and did not end with the interrogation and torture sessions, during which the same techniques were used on male and female detainees. Many women had been detained with their children, who remained with their mothers in filthy conditions. One woman, Rania al-Abbasi, who had been detained in 2012, had disappeared with six of her children; all remained missing.

28. Ms. Aljizawi noted that dozens of women and girls had been held by terrorist organizations, including ISIL and Jabhat al-Nusrah, and had been forcibly recruited and forcibly married. Undisciplined militias operating in coordination with the Government of the Syrian Arab Republic had been involved in abductions and detentions. She was worried that, even if access to detention centres was to be granted, access would still not be given to secret detention centres run by militias. Farms, school and private properties had been used by militias as torture centres. Many women had been abducted by some of the militias and their bodies found thrown in the streets, particularly in Homs, in 2011, where Ms. Aljizawi had herself been involved in documenting such cases.

29. Ms. Aljizawi ended by saying that she had been released not because of the humanity or kindness of her captors but thanks to the solidarity of human rights defenders, who had launched a large support campaign that had reached the scary place where she was being held and had pressured the regime not to kill her. She added that, even if the mechanisms were slow, the international community had to persevere in its efforts to secure the release of women, children and men.

30. In his intervention, Mr. Al-Jilane spoke about the situation in areas such as Deir Ezzour, Raqqa, rural Aleppo and Idleb, which were known to the public for hosting extremists. He highlighted that those areas were home to nearly 3 million civilians and about 100,000 missing persons, including detainees.

31. During the second half of 2014, ISIL had taken control of Raqqa and had begun spreading terror among the civilian population. Abductions and executions had started spreading in order to eliminate any alternative system. ISIL expanded eastward and westward, controlling areas of rural Aleppo and large parts of Deir Ezzour governorate after months of confrontation with the Free Syrian Army, using safe passages provided through government-controlled areas that allowed them to expand their geographic control.

32. Not a single family in eastern Syrian Arab Republic had been spared from ISIL oppression. Every home counted a missing person or someone who had become a martyr at the hands of ISIL. ISIL was holding 8,653 civilians in captivity, including 1,081 children, who were tortured on a daily basis, including for acts such as smoking or not abiding by a strict dress code. Journalists and other detainees considered to be a threat to ISIL were systematically moved between secret detention centres where they faced harsh treatment. Some 1,380 children had gone missing from camps. Since the end of 2014, other groups, such as Jabhat al-Nusrah, Jabhat Fath al-Sham and, later, Hay'at Tahrir al-Sham, had held some 1,844 people in Idleb alone (1,138 civilians and dozens of Free Syrian Army elements) in Al-Aqab detention centre, which had become Jabhat al-Nusrah's most notorious detention centre.

33. Mr. Al-Jilane added that the Syrian Democratic Forces had carried out ethnic cleansing campaigns that had affected entire villages in the northern rural areas of Raqqa over which it had taken control. It was holding 3,481 civilians in captivity, including 734 women and children. Raqqa is Being Slaughtered Silently had documented deaths resulting from torture committed in these areas. Some detainees had been transferred to government forces upon their request, within a framework of cooperation between the two parties. Like other militias, the Syrian Democratic Forces had arrested and forcibly recruited persons in areas under their control. Mr. Al-Jilane ended by emphasizing that, in the quest for accountability, there was a need to focus on the top of the pyramid and identify those who had unleashed all those extremist groups in 2011.

34. Mr. Darwish emphasized that, in addition to all the actors involved in detention and enforced disappearances listed by the panellists, government-affiliated local militias such as the National Defence Forces and other cross-border sectarian militias operated secret

detention centres. He added that the information shared by the panellists was not new to anyone, as lack of information or evidence was not a problem. He highlighted that since the Nuremberg trials, there had not been a context with such a large amount of evidence and witnesses. The problem was the lack of political will to stop the carnage.

35. Mr. Darwish added that detentions in the Syrian Arab Republic, such as his, that of his wife, parents and father-in-law, occurred with some legal cover provided either by government courts or by sharia courts. Field military courts had issued thousands of death sentences without respecting due process. The recently published report by Amnesty International was only part of a much graver reality. Extermination, a term used by the Commission of Inquiry, was ongoing. Those atrocities, which had been committed for six years, were continuing as the Human Rights Council was in session. Civilians, including women and children, who had committed no crime were dying under torture.

36. The answer to the frequent questions on how extremism had come about, on why young people were joining criminal gangs and on the activities of terrorists groups lay in Syrian detention centres and prisons. The root causes of terrorism needed to be looked into in order for terrorism to be defeated.

37. The dream of many Syrians was for the war to come to an end, but they wondered how peace and a political solution could be achieved while hundreds of thousands of Syrians were detained or missing; how there could be real peace without accountability for the crimes committed. Referring to the political negotiations, Mr. Darwish warned that the decision to raise the issue of detainees during the talks in Astana instead of in Geneva had sent a negative signal, as the issue became limited to an exchange of prisoners between warlords. None of the warring parties was concerned with many of the categories of persons detained, including human rights defenders. They mostly cared about the interests of combatants, not about artists, lawyers or activists.

38. Mr. Darwish ended by expressing the hope that the children of his torturers would live in peace, just as he hoped his own children would. He added that, in order to avoid vengeful acts, a genuine transitional justice process was required. Without it, the ground would be laid for a civil war that would erase what was left of the Syrian Arab Republic and its people. Without accountability, the international community would send a wrong signal to criminals throughout the world, giving them the green light to act freely and continue to commit war crimes and crimes against humanity.

39. Syrians paid the highest price for the presence of *takfiri* and extremist groups such as ISIL and Jabhat al-Nusrah and therefore had the biggest interest in eradicating extremism and terrorism. Mr. Darwish warned that the mistakes made in Iraq were being replicated. The situation in the Syrian Arab Republic and the entire Middle East required a comprehensive solution based on justice and democratic change as the way to guarantee sustainable peace and eradicate terrorism.

IV. Summary of the discussion

40. During the interactive phase of the panel discussion, the following delegations spoke (in order of intervention): the United Kingdom of Great Britain and Northern Ireland (on behalf of France, Germany, Italy, Jordan, Kuwait, Morocco, Qatar, Saudi Arabia, Turkey and the United States of America), Norway (on behalf of the Nordic countries), Bahrain (on behalf of the Gulf Cooperation Council), the European Union, Spain, the United Kingdom, Australia, New Zealand, Uruguay, Germany, Israel, Belgium, Qatar, Slovenia, Liechtenstein, the Islamic Republic of Iran, the Bolivarian Republic of Venezuela, France, the Plurinational State of Bolivia, the Maldives, the Netherlands, the United States, the Russian Federation, Switzerland, Italy, Portugal and Iraq.

41. The following NGOs contributed to the discussion: the Cairo Institute for Human Rights Studies, the Women's International League for Peace and Freedom, Human Rights Watch, the World Council of Arameans (Syriacs), Africa Culture Internationale and the International Organization for the Elimination of All Forms of Racial Discrimination.

Interventions by representatives of States

42. Many representatives of States acknowledged that the people of the Syrian Arab Republic continued to face horrific violations and abuses of international human rights and international humanitarian law, and condemned the fact that tens of thousands of Syrians had been subjected to detention and enforced disappearance. They also condemned the brutal conditions of detention in facilities run by non-State armed groups, including terrorist groups such as ISIL and Jabhat al-Nusrah. They urged all those who had influence on the parties to the conflict to do their utmost to end the violence.

43. Many representatives condemned detention-related violations and abuses that caused lasting pain and uncertainty for victims and their families, as highlighted in the recent reports of Amnesty International and the Commission of Inquiry, in which the situation was described as "extermination" and the need to end the physical and psychological torture in Syrian detention centres was highlighted.

44. Many representatives called on all parties, particularly the Government of the Syrian Arab Republic, to release all those illegally detained, to protect those in their custody and to grant unhindered access to international independent monitors. Many representatives also condemned the fact that the Government did not guarantee fair trials.

45. Many representatives highlighted the importance of the Commission of Inquiry continuing to document violations and abuses of international human rights and international humanitarian law, welcomed the establishment by the General Assembly of the International Impartial and Independent Mechanism and called upon the Syrian authorities to cooperate with both mechanisms.

46. A number of representatives called for the implementation of Security Council resolution 2254 (2015), including the lifting of sieges, the delivery of humanitarian assistance, the end of indiscriminate attacks, the release of detainees, the end of executions. They emphasized the necessity to protect vulnerable groups, including children, women and members of ethnic and religious groups. Some representatives condemned, in particular, the violations committed against women in ISIL-controlled Raqqa.

47. Several State representatives emphasized the need for the international community to end impunity in the Syrian Arab Republic and to support current and future accountability initiatives so that those responsible for violations and abuses of international law would be held to account. In that regard, some delegations stressed the importance of referring the Syrian Arab Republic to the International Criminal Court and of supporting other accountability initiatives.

48. Many representatives reiterated their support for the efforts of the Special Envoy of the Secretary-General for Syria to find a political solution and stressed that lasting peace could not prevail without justice.

49. Some representatives highlighted the necessity to protect and help those assisting others, such as aid workers.

50. Some representatives asked how the international community could better protect and secure access to victims of detention. Some representatives asked what steps could be taken quickly by the international community to address the issues of detention, enforced disappearance and missing persons given the ongoing failure of the Security Council to refer the situation to the International Criminal Court and to impose sanctions on individuals or entities involved in detention-related crimes. Some representatives wondered how they could best support Syrian civil society efforts in that regard.

Interventions by representatives of non-governmental organizations

51. Some representatives of NGOs highlighted that the war continued to devastate the lives of millions of people in the Syrian Arab Republic and that the United Nations and its Member States needed to do more than monitor the situation and express moral outrage. Violations and abuses continued despite the ongoing talks, and it was imperative that

human rights issues, including the situation of detainees, be prioritized in the negotiations. Any agreement should grant independent monitors access to detention facilities and to all those deprived of their liberty, irrespective of who was holding them. Peace required the release of the thousands still suffering from arbitrary detention and that justice be done for the crimes perpetrated against them.

52. Some representatives welcomed the fact that some European Union countries had taken effective steps towards accountability through their national justice systems and highlighted that those efforts must be strengthened. They welcomed the creation of the International Impartial and Independent Mechanism but noted that it required adequate resources if it was not to become irrelevant.

53. Some representatives urged the international community to pressure the Government of the Syrian Arab Republic and the other parties to the conflict to release a list of all detainees, as well as information on their current location and status, and to immediately stop torture. In the case of the death of a detainee, a death certificate with the cause of death and the burial location must be presented to the families.

54. Some representatives urged the international community to further pressure the Government of the Syrian Arab Republic to abolish special courts, including counter-terrorism courts and field military courts, and to guarantee fair trials, regardless of the families' affiliations.

55. Some representatives urged the Government of the Syrian Arab Republic to repeal laws that criminalized the right to peaceful assembly, association and freedom of expression, and called on all parties to explicitly commit to not detain or prosecute aid workers.

56. Some representatives highlighted that a transition plan must include an independent mechanism for vetting current and future senior security officials and that, wherever there was sufficient evidence to indicate responsibility for international crimes, suspects should be prosecuted in fair trials.

V. Final remarks by the panellists

57. In response to the comments and questions made by the representatives of States and NGOs, the panellists emphasized the importance of accountability for all victims in the Syrian Arab Republic, without discrimination and regardless of ethnicity, religion or race. They insisted on the importance of ending impunity, whoever the perpetrator was, and highlighted that all perpetrators must be held to account, not in a spirit of revenge but through a comprehensive transitional justice process aimed at addressing all crimes against humanity and war crimes.

58. The panellists emphasized that the role of Syrian civil society was central and essential and insisted that the international community and the United Nations must work in partnership with Syrian civil society organizations, including in establishing accountability mechanisms such as the International Impartial and Independent Mechanism. Syrian civil society organizations should not only be seen as providers of information but as genuine partners with skills and knowledge of the complexities and sensitivities of the context. They were ready and looked forward to cooperating with the Mechanism and with European or other countries where courts were examining Syrian cases, including on the basis of the principle of universal jurisdiction.

59. The panellists reiterated the importance of States pressuring the parties to the conflict into taking effective steps to take action on the issue of detention and securing the release of detainees. They added that warring and negotiating parties must not use detainees as bargaining chips in the political process.

60. The panellists stressed that it was imperative to assist in the rehabilitation of torture survivors, who were all over the world and who had severe physical and mental scars. That was a major gap in the response at the moment.

61. The panellists highlighted that the demands and steps required were clear and achievable, and included an immediate halt to all death sentences issued by military courts, special courts and sharia courts, granting the International Committee of the Red Cross and the United Nations, including OHCHR monitors, access to detention centres with a view to improving conditions. All parties needed to provide the United Nations with lists of the names of those they were holding, those who had died or had been executed and the location of burial sites and establish a mechanism for identifying remains.

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Agenda items 2 and 5
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights bodies and mechanisms

Panel discussion on the contribution of parliaments to the work of the Human Rights Council and its universal periodic review

Summary report of the United Nations High Commissioner for Human Rights*

Executive summary

The present report is submitted pursuant to Human Rights Council resolution 30/14, in which the Council decided to convene, at its thirty-second session, on the occasion of the tenth anniversary of the Council, a panel discussion that would take stock of the contribution of parliaments to the work of the Council and its universal periodic review and identify ways to enhance further that contribution. The panel discussion was held on 22 June 2016. It brought together parliamentarians from Ecuador, Morocco and the Philippines, a representative of the Inter-Parliamentary Union (IPU), the legal adviser to the Joint Committee on Human Rights of the Parliament of the United Kingdom of Great Britain and Northern Ireland and was moderated by the Permanent Representative of Maldives. The panel was opened by the Director of the Human Rights Council and Treaty Mechanisms Division and the Secretary-General of the Inter-Parliamentary Union. In the course of the panel discussion, many speakers reaffirmed the importance of parliamentary involvement in the work of the Council and its universal periodic review in order to promote human rights. Specific examples of parliamentary action in contributing to ensure the respect by States of their international human rights commitments were provided by participants in the discussion, at the end of which a series of recommendations was put forward, including:

(a) The need for parliamentarians to mainstream human rights international norms in their national legislation;

(b) The need for parliamentarians to identify adequate resources and expertise to

* The present document was submitted after the deadline in order to reflect the most recent developments.

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enable them to become involved in the international human rights arena;

(c) The implementation of the Belgrade Principles on the relationship between national human rights institutions and parliaments, and the important role to be played by civil society in support of parliaments in order to ensure the compliance of national legislation with international human rights norms and standards;

(d) While parliamentarians should be more proactive in their engagement in the work of the universal periodic review and other human rights mechanisms, the Council should also take into account where possible the work of parliaments in its deliberations and ensure their protection in the discharge of their mandate;

(e) The need for parliamentarians to actively participate in national mechanisms for reporting and follow-up and resulting national human rights action plans and to contribute to the implementation of recommendations for which legislative action is required;

(f) The need for parliamentarians to engage more proactively and systematically in the work of human rights mechanisms through a set of principles and guidelines;

(g) The need for parliaments, especially existing parliamentary human rights committees, to oversee human rights policies and actions by Governments, especially the implementation of recommendations resulting from the international human rights mechanisms.

I. Introduction

1. The present report is submitted pursuant to with Human Rights Council resolution 30/14, in which the Council decided to convene, at its thirty-second session, on the occasion of the tenth anniversary of the Council, a panel discussion that would take stock of the contribution of parliaments to the work of the Council and its universal periodic review and identify ways to further enhance that contribution The panel discussion was held on 22 June 2016. It brought together parliamentarians from Ecuador, Morocco and the Philippines, a representative of IPU and was moderated by the Permanent Representative of Maldives.

II. Opening statements

2. The Director of the Human Rights Council and Treaty Mechanism Division noted the growing international consensus about the importance of the role of parliaments in the promotion and protection of human rights. As such, the Council was exploring ways to improve the contribution of parliaments to its work and that of its universal periodic review. He stated that parliaments, as legislators and as overseers, played a crucial role for human rights and that 60-70 per cent of the recommendations made as part of the universal periodic review required or involved parliamentary actions. However, he regretted that the first and second review cycles had failed to ensure significant parliamentary participation. In response, The Office of the United Nations High Commissioner for Human Rights (OHCHR) had already held a panel discussion on the topic and had collaborated with IPU on four regional seminars. In conclusion, he encouraged parliaments that do not have specialized human rights committees to establish them.

3. The Secretary-General of the Inter-Parliamentary Union highlighted the work of IPU, which covers 170 parliaments over the world. He particularly emphasized the role played by its standing committee dedicated to human rights, which helped parliaments to gain a better understanding of human rights and their role in the implementation of human rights norms and standards, and the committee that addresses human rights violations affecting parliamentarians. He expressed his wish for the Human Rights Council to strengthen its engagement with parliaments. The regional seminars organized by IPU and OHCHR on the universal periodic review raised the awareness of parliaments of the mechanism and process and helped to encourage the participation of parliamentarians in the different steps of the process. Indeed, parliaments could fulfil a role at each stage of the review, such as being informed of reports, holding debates on the topics and sending parliamentarians as part of their countries' delegations. In conclusion, the Secretary-General made three recommendations: (a) he called upon the permanent representatives based in Geneva to play a critical role in helping to ensure that their own capitals start integrating parliaments more systematically into the review process; (b) that the universal periodic review — and special procedure mandate holders — follow the example of the Committee on the Elimination of Discrimination against Women, by systematically including in its reports a paragraph that highlights the need for parliamentary engagement; (c) that the Council ensure that the work of parliament is more systematically taken into account.

III. Presentations by the panellists

Moderator, Hala Hameed

4. Hala Hameed, the Permanent Representative of Maldives, highlighted the human rights protection role of diplomats, legislators and leaders and regretted the fact that they would sometimes tend to protect the legislation and the narrow letter of the law instead of the spirit of human rights and the rule of law. True justice could be achieved only through the application of international norms and standards. She recalled that the purpose of the

panel discussion was to enhance the contribution of parliaments to the universal periodic review, which was taking place against the backdrop of the first panel on this topic, held in May 2013, and the four subsequent seminars held by OHCHR and IPU.

5. Alexandra Ocles Padilla, Member of the National Assembly of Ecuador and President of the parliamentary group for the rights of peoples and nationalities, highlighted the number of challenges for promoting and protecting human rights. Because there is a broad range of actors in the legislating process, Ms. Ocles Padilla wondered what was the exact role of parliaments in complying with human right mechanisms and instruments.

6. She emphasized that many countries have submitted annual resolutions, pursuant to the considerations that parliaments: (a) comply with and carry out in implementing recommendations and commitments to international human rights; and (b) approve budgets for public expenditure, as human rights improvements require funding.

7. Thus, Ms. Ocles Padilla welcomed initiatives such as the panel, which play an important role in achieving the Sustainable Development Goals.

8. Ms. Ocles Padilla highlighted the work of the Ecuadorian authorities, which cooperate with the Human Rights Council by considering its various reports, working with its mechanisms and sending their feedback to the Council. In that regard, she indicated that, at her level, she had reported on some action on human rights in Ecuador. She emphasized four of the main provisions of the Ecuadorian Constitution in relation to: (a) the full rights and protection of vulnerable people who live in the territory; (b) the guarantee of the rights established in the constitution and in international instruments; (c) the concept of "the good way of living"; and (d) the commitment to the international system of human rights and other treaties and international norms and standards.

9. Ms. Ocles Padilla provided a few examples of the human rights-based initiatives of the Ecuadorian Parliament. She referred to its support for giving a pension to domestic workers as a groundbreaking measure. In the same vein, in December 2015, Parliament approved the Law on the Management of Identity and Civilian Data, which guaranteed the right to identity changes and would protect transgender persons from having to disclose their gender of origin when they voted.

10. Hakim Benchamach, President of the Chambre de Conseillers of Morocco and Member of the Superior Council of Education and Vocational Training, shared his experience as a victim of violence in Morocco, having had his human rights violated when he was detained and tortured. On the basis of his personal experience, he pled in favour of parliamentary participation in the Council. In doing so, he shared some of the parliamentary actions of Morocco in promoting human rights and complying with recommendations emanating from the universal periodic review. In that regard, he welcomed the adoption of the 2011 Moroccan Constitution, which was now in line with international human rights standards, and the establishment of the various monitoring bodies responsible for checking the compatibility of national laws with human rights norms. He indicated that the Constitution stated in its preamble that the compatibility of national legislation with international law was vital and had introduced specific human rights principles. In addition, legislators were requested to consult with national human rights organizations to make sure their draft laws were in line with human rights norms and standards. This was also the illustration of the important role of civil society organizations, in particular the national human rights council.

11. Mr. Benchamach put forward a number of recommendations for national parliaments. First, he recommended an institutionalization of national parliamentary participation in the universal periodic review, so that parliaments would be obliged to submit alternative reports. Second, he recommended that legislative bodies be strengthened so they can actually adopt human rights policies. Third, he recommended that the Belgrade Principles be reflected in the work of parliaments. Fourth, he recommended that a streamlined methodology be adopted for the drafting of parliamentary documents, upholding the principles of IPU.

12. Neri Colmenares, Senior Deputy Minority Leader of the Philippines House of Representatives, was asked to report on behalf of the Senate President, Aquilino Pimentel

III, on the results of the seminar held in Manila on 26 and 27 February 2015, co-organized by IPU and OHCHR, which was attended by 148 participants, of whom 95 were parliamentarians. He noted that migrants and migrants' rights, the environment and environmental rights, armed conflicts within and between States, terrorism, inequality in development between and within States, gender inequality and minorities and indigenous people rights were among the thematic regional and common challenges identified during the seminar.

13. He indicated that the seminar had adopted a number of recommendations, including:

(a) That more capacity-building be given to members of national parliaments and local legislative councils;

(b) That there be further awareness-raising, both for parliaments and the general public, on the knowledge and understanding of human rights;

(c) That a parliamentary standing committee or functional committee be created in several parliaments as mechanisms to promote the universal periodic review, and to participate in drafting the national reports and follow-up to legislative inquiries on the updates of the implementations;

(d) That the recommendations made as part of the universal periodic review be sent to the parliamentarian themselves;

(e) That human rights be treated as a cross-cutting consideration on policy formulation and law-making, which means human rights will be a primary consideration in legislative actions;

(f) That parliaments in the region be linked and best practices shared in addressing human rights violations and related issues. Mr Colmenares added that IPU has been facilitating this initiative, but there remains a need for States in the region to share bilaterally. He also added that parliamentarians must be protected themselves in order for them to protect other people's human rights;

(g) That inclusive engagement with stakeholders be encouraged through dialogue and consultation;

(h) That human rights education continue, and public information campaigns conducted on the laws dealing with human rights;

(i) That national and regional human rights institutions and mechanisms be created that are independent and have effective human rights promotions and protection mandates;

(j) That parliamentary committees be established to oversee the implementation of international treaties and conventions on human rights.

14. In conclusion, Mr. Colmenares indicated that, as representatives of the people, parliaments and parliamentarians had an important role to play when the rights of people were violated. He was of the view that the institutionalization of international human rights norms in national legislation was probably the best response of parliaments.

15. Kareen Jabre, Director of the Division of Programmes at IPU, provided information on the engagement of IPU with the Committee on the Elimination of Discrimination against Women as part of the long-standing commitment of IPU to promoting gender equality. She recalled that IPU had engaged parliaments on the Committee 15 years ago by carrying out a survey, which had showed that parliaments had a poor knowledge of the Convention on the Elimination of All Forms of Discrimination against Women and did not fully comprehend their commitments to that instrument. This then triggered two objectives: to enhance the involvement of parliaments with the Committee and to enhance the Committee's engagement with parliaments. In order to advance the first objective, IPU raised awareness of the Convention itself, organized global and regional meetings, developed tools, identified best practices, supported parliaments to dialogue and implemented and followed up on implementations. Parliaments became more and more aware of their role in translating into national legislation the provisions of the Convention. Indeed, parliaments can ratify the Convention, remove reservations, adopt national laws in accordance with the

provisions of the Convention, allow sufficient budget to implement the provisions of the Convention and raise awareness about the Convention. With regard to the second objective, IPU briefed parliaments on the ways to report and provide information to the Committee and informed the Committee about the level of participation by parliaments. The success of the collaboration was partly due to the initiative of the Committee to include a standard paragraph in its concluding observations requesting parliaments to comment and indicate measures taken to implement the recommendations.

16. Ms. Jabre provided a few examples of the successful involvement of parliaments in the work of the Committee. First, parliamentarian exposure to the Committee had resulted in changes in law-making prerogatives, as was the case in Burkina Faso, Jordan and Maldives. Second, greater parliamentary involvement allowed countries to align their action to the priorities of the Committee, as was the case in Mauritania and Turkey. Third, further involvement had allowed for greater debate, such as the case in Namibia. Fourth, greater participation had allowed the Convention to be mainstreamed, as was the case in Uganda.

17. Finally, Ms. Jabre stated that she was of the view that more work was necessary to ensure a systematic and cross-cutting inclusion of the Committee and human rights in the work of parliaments. That is, human rights should not only be included in the work of specialized bodies but should also be mainstreamed into the overall legislative work. She then recommended that other Human Rights Council initiatives acknowledge the role of parliaments and permanent missions in conveying to their capitals the importance of parliaments.

18. Murray Hunt, legal adviser to the Joint Committee on Human Rights of the United Kingdom Parliament and visiting professor in human rights law at the University of Oxford, made comments in his capacity as the leader of a research project at the University of Oxford. In that regard, he indicated that the purpose of his research project was to survey the ways in which parliaments had a role in relation to the rule of law and human rights. The research had established that the world was turning to parliaments to promote and protect human rights and strengthen the rule of law, i.e., there was a global consensus that the protection of the rule of law and human rights could not simply be left to the courts, lawyers and legal remedies, but that parliaments had a shared responsibility.

19. The reason for the consensus was twofold. First, people were looking for effectiveness, since parliaments were uniquely positioned to close the implementation gap, prevent violations of human rights and implement recommendations on fixing and preventing further human rights violations. Second, people were looking for legitimacy, since elected officials wanted to participate in the rule of law and human rights and not leave it solely to courts and lawyers.

20. His activities and research have allowed him to observe that there has been renewed emphasis on the inclusion of parliaments by States in fulfilling their primary responsibility of protecting human rights. He therefore wondered how to bring about a radical change in the role of parliaments and made the following proposals in that regard:

(a) Ensure the proactive expertise of parliaments, so that experts can mediate between international norms and standards and national legislation and explain how national parliaments can engage in that work;

(b) Establish a formal network for information exchange, dialogue and coordination. He was of a view that a properly resourced, formal network of relevant parliamentarians, lawyers and researchers would help facilitate the exchange of relevant information and provide a forum for sharing best practices;

(c) Ensure the Human Rights Council takes proactive steps by creating a new mandate for a special rapporteur to increase parliamentary involvement and mainstreaming and by involving key parliamentarians in its proceedings.

21. Finally, Mr. Hunt stated that he was of view that a set of global principles and guidelines could provide an overarching narrative and coherence to what was currently an array of disparate practices across the world, and provide a common framework for capacity-building.

IV. Summary of statements from members and observers

22. Many speakers echoed the sentiment that parliamentary involvement in the work of the Council and its universal periodic review was important in order to promote human rights.

23. In that regard, Egypt, Sierra Leone, India, the European Union, the African Group and Pakistan on behalf of the Organization of Islamic Cooperation were in agreement and highlighted the role that parliaments play in promoting and protecting human rights by enacting legal norms and constitutional frameworks. They also pointed out that parliaments cooperated at the national level with civil society and other State actors in promoting a better synergy between human rights commitments and their national implementation. In addition, they underlined the role parliaments have in approving budgets and providing funding for the implementation of accepted recommendations. Some also emphasized the oversight role of parliaments to ensure that implementation is carried out. Several countries then asked the panellists, and more specifically IPU, how to achieve a strengthened engagement of parliament in the work of the human rights council.

24. Several countries pointed out the issue of "illegitimate governments". The European Union inquired how to engage parliaments when the rule of law and electoral laws were at risk. Nigeria stated that parliaments should build independent structures to carry out the human rights directives, especially in situations where "governments may not be making good laws or their representatives may not defend peoples' rights against excesses of autocratic governments".

25. In the course of the discussion, a few countries shared their national experience.

26. Spain on behalf of Ecuador, Italy, Maldives, Morocco, the Philippines and Romania presented an initiative to increase awareness and knowledge among the Council and its work and the parliament, in order to explore synergies and advance cooperation bilaterally or through IPU.

27. Australia, Canada and New Zealand highlighted some good practices from their jurisdictions. Australia had set up a committee that reviews bills to ensure their compatibility with human rights norms. A similar structure existed in Canada, whereas the same compatibility consideration fell within the purview of the Attorney General in New Zealand. Australia also included parliamentarians in its delegation to the Working Group on the Universal Periodic Review.

28. Paraguay highlighted the cooperation between parliaments and the national human rights network, and the way in which the national system of monitoring makes sure the recommendations are mainstreamed to support their work.

29. Georgia reported that its Human Rights and Civil Integration Committee had initiated amendments to the Parliamentary Regulation, strengthening the consultation process for the preparation of the national report and voluntary midterm report.

30. Slovenia highlighted its well-established cooperation between the Government and the National Assembly in the universal periodic review process.

31. Three non-governmental organizations (NGOs) also made interventions. The Arab Commission for Human Rights urged States to expand and strengthen the involvement of parliaments in all of the Human Rights Council activities, to include all human rights processes, not only the universal periodic review. Rencontre Africaine pour la Défense des Droits de l'Homme agreed that parliamentary involvement was important for the review process and encouraged the Council to promote best practices. The Korea Center for United Nations Human Rights Policy recommended member States to establish permanent bodies within parliaments to ensure the implementation of international human rights standards.

V. Comments from the panellists

32. Before giving the floor to the panellists for additional comments and views, Ms. Hameed noted the general agreement towards strengthened engagement of parliaments in

the implementation of human rights norms and standards and the need for harmonization of national laws with international norms. In that regard, the proposal for guidelines and principles put forward by Mr. Hunt would benefit from specific indication as to how this would affect States and the way to strike the balance between national sovereignty and legislative application of human rights.

33. Mr. Hunt acknowledged the fact that the balance between national sovereignty and legislative application was a sensitive matter. However, he noted that, in view of the fact that the primary obligation of States was to implement the human rights standards they had committed to through the ratification process, it was possible to transfer the responsibility of implementation of recommendations from United Nations human rights mechanisms from the international sphere to the national parliaments. He confirmed that the adoption of a set of human rights principles and guidelines was still at an early stage and that countries should go through the process themselves and adopt the most appropriate format for themselves. The principles and guidelines would emanate from successful national experiences.

34. Mr. Benchamach noted that the role of parliaments in the promotion of human rights needed no further evidence, although the extent to which such a role was played was dependent of national contingencies and national culture. According to him, OHCHR and IPU were best placed to help strengthen that role by building the capacity of parliaments and ensuring a space for parliamentary involvement at the international level.

35. He suggested that there be a United Nations analysis on the level of implementation by States of the Belgrade Principles. On the basis of the positive experience of Morocco, he also suggested that parliaments be trained and assisted in mainstreaming human rights into the internal rules and procedures.

36. Ms. Ocles Padilla stated that training for parliamentarians would result in greater engagement, as demonstrated in Ecuador. The positive impact of effective monitoring and information technology platforms supporting human rights was highlighted. She stated that technological platforms were useful for the legislator and the executive office to provide clear follow up to the implementation of human rights laws.

37. Mr. Colmenares encouraged OHCHR and IPU to organize intergovernmental dialogues to share best practices on the involvement of parliaments in human rights. In that regard, he recommended that the proposal be considered for the Council to establish a special rapporteur focusing on parliamentary involvement. He encouraged the involvement of parliaments in States' human rights reporting and monitoring. Indeed, he indicated that the monitoring by parliament of the implementation of States' human rights commitments could overcome potential institutional complications, such as a hardly accessible judicial system. According to him, Congressional inquiries, especially during the budgetary allocation period, could be an important step to monitor the actions by the executive branch. The institutionalization of human rights did not involve only the mere knowledge of human rights, but also the understanding of the implications of the rights and the consequences of their violations.

38. Ms. Jabre indicated that an effective engagement of parliaments in the work of human rights mechanisms would entail that such a space for engagement be created. The engagement should also be systematic and constant. In addition, she made an appeal to permanent missions in Geneva to take more systematically and constantly these messages of engagement back to their parliaments, in order to build on the momentum.

39. She acknowledged that such a systematic and constant engagement should emanate from parliaments themselves. Institutionalization was a good idea, either by building a separate body focusing on engagement, or developing methodologies and procedures that require parliaments to systematically and constantly engage on human rights matters.

40. In conclusion, Ms. Jabre informed the Council about the research carried out jointly by IPU and the Geneva Graduate Institute on the level of implementation of the Belgrade Principles worldwide.

VI. Summary of statements from members and observers

41. Most of the States that took the floor for the second round of comments shared their national experience and practices.

42. Pakistan indicated that both houses of Parliament had established human rights standing committees in addition to its Women Parliamentary Caucus, the main function of which was the promotion of women's rights. On the same issue, Italy provided information on its human rights monitoring mechanism, which was also tasked to ensure follow-up and reporting.

43. South Africa gave information about the participation of parliamentarians in its universal periodic review delegation, while Algeria indicated the direct involvement of parliamentarians in the drafting of the national report. Namibia highlighted its cooperation with IPU and the holding of a workshop for parliamentarians in the country, and Algeria confirmed the holding of a series of human rights seminars and study days for its parliamentarians.

44. The Republic of Korea welcomed the ratification of the Palermo Protocols by its National Assembly, in accordance with the recommendations made as part of the universal periodic review.

45. China, the Islamic Republic of Iran, Libya, Maldives, Namibia, the Sudan and Tunisia further echoed the importance of parliamentary involvement in human rights implementations. In that regard, Libya and Maldives then highlighted the importance of capacity-building, while Libya specifically asked for more technical support, namely, to create a national reconciliation commission, find solutions for displaced persons and refugees and promote the role of women, people with disabilities and minorities.

46. Representatives of three NGOs spoke. Espace Afrique explained that parliamentary involvement gave more legitimacy to human rights norms. It therefore encouraged the Human Rights Council to pursue greater parliamentary involvements and invest in capacity-building of the legislative branch.

47. Sudwind Entwichlungspolitik noted that submitting country reports was not effective without the establishment of human rights policies and legislations that prohibit human rights violations.

48. The Khiam Rehabilitation Center for the Victims of Torture noted that the pre-condition for parliamentarians to perform their oversight and human rights promotion and protection role was to be protected from abuses and for their independence to be guaranteed and protected.

VII. Concluding remarks

49. The concluding remarks made by the panellists included the following:

(a) The need for parliamentarians to mainstream human rights international norms in their national legislation;

(b) The need for parliamentarians to identify adequate resources and expertise to be involved in the international human rights arena;

(c) The implementation of the Belgrade Principles and the important role to be played by civil society in support of parliaments to ensure compliance of national legislation with international human rights norms and standards;

(d) The fact that, while parliamentarians should be more proactive in their engagement in the work of the universal periodic review and other human rights mechanisms, the Council should ensure their protection in the discharge of their mandate;

(e) The need for parliamentarians to participate actively in national mechanisms for reporting and follow-up and resulting national human rights action plans, and to

contribute to the implementation of recommendations for which legislative action is required;

(f) The need for more proactive engagement of parliamentarians in the work of human rights mechanisms through the development of a set of principles and guidelines;

(g) The need for parliaments — especially existing human rights committees — to oversee human rights policies and actions by Governments — especially the implementation of recommendations resulting from international human rights mechanisms.